

IN THE COURT OF COMMON PLEAS OF YORK COUNTY,
PENNSYLVANIA

SARA PICKETT, Plaintiff	:	No. 2021-FC-001007-03
	:	
VS	:	
	:	
KRISTOFFER HEXTER, Defendant	:	
	:	
VS	:	
	:	
BRUCE HEXTER, Intervenor	:	

(Custody Trial-Day 1)

York, Pa., Thursday, April 7, 2022

Before the Honorable N. Christopher Menges, Judge

APPEARANCES:

Josh Bodene, Esquire
For the Plaintiff

Joshua A. Harshberger, Esquire
For the Defendant
For the Intervenor

TRANSCRIPT OF PROCEEDINGS

Reported by:

Sherri A. Reitano, RPR
Official Court Reporter

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PROCEEDINGS HELD ON THURSDAY, APRIL 7, 2022

* * *

THE COURT: Good morning.

ATTORNEY HARSHBERGER: Good morning,

Your Honor.

ATTORNEY BODENE: Good morning, Your

Honor.

THE COURT: We are here for a custody trial. So before I interview the child, let's do a couple of preliminary things. I got the stipulation of facts. Thank you very much. I appreciate that.

Can we possibly have a stipulation as to what father's criminal record is?

ATTORNEY HARSHBERGER: Yes.

THE COURT: I saw in the file somewhere it includes involuntary deviate sexual intercourse, statutory assault or whatever. He's going to have a minimum I think 54 months or something like that.

ATTORNEY HARSHBERGER: Yes, there is a plethora of charges. And then subsequently after those charges and conviction, he did have a risk of harm hearing in Lebanon County. That had all of those charges which he was determined not to be a risk of harm. But I could find one of his filings, Your Honor,

09:14:49 1 or criminal abuse history verification or we can fill
09:14:53 2 one out.

09:14:53 3 THE COURT: You know, it's -- that leads
09:14:59 4 into my next question, Attorney Harshberger, which is
09:15:02 5 simply what is it? From the pre-trial conference my
09:15:07 6 notes indicate father simply wants advised of available
09:15:14 7 records of the children and so forth.

09:15:16 8 ATTORNEY HARSHBERGER: Yes. And phone
09:15:17 9 contact.

09:15:18 10 THE COURT: I'm sorry.

09:15:19 11 ATTORNEY HARSHBERGER: And some phone
09:15:20 12 contact.

09:15:20 13 THE COURT: Some phone contact.

09:15:23 14 ATTORNEY HARSHBERGER: We are asking
09:15:23 15 very minimal for father until he's released from
09:15:26 16 incarceration which at that point in time would be --
09:15:29 17 he would have to file to modify. The real crux of
09:15:33 18 today's issue is grandfather's intervention status.

09:15:38 19 I believe there are -- he was granted
09:15:40 20 standing at the conference and then still an open issue
09:15:43 21 as to the older child if we are going to keep the older
09:15:49 22 child on or argument is obviously estoppel and in loco
09:15:56 23 parentis. That was in loco parentis. Grandfather
09:15:56 24 has -- he has been treating this child as his
09:16:00 25 grandchild for the life of the child and we believe

09:16:01 1 that that custody order shouldn't be changed or
09:16:05 2 altered. And that grandfather should be awarded some
09:16:09 3 visitation. And our visitation request was minimal,
09:16:13 4 one weekend a month and one week in the summer for
09:16:22 5 vacation if grandfather is able to execute that or, you
09:16:26 6 know, with proper notice.

09:16:28 7 THE COURT: That would be with both
09:16:29 8 children?

09:16:29 9 ATTORNEY HARSHBERGER: Yes.

09:16:30 10 And the holiday, Your Honor. I talked
09:16:33 11 to him about this a little bit. But -- and he's not
09:16:36 12 like I don't want Christmas day, I don't want
09:16:39 13 Christmas. He's okay with the weekend after Christmas.
09:16:42 14 Let me just get that weekend. And I really didn't talk
09:16:46 15 to him about Thanksgiving, Easter. But I figure if
09:16:48 16 he's already getting them one weekend a month, that
09:16:50 17 should be sufficient for him.

09:16:51 18 He's not looking to supplant mom or dad,
09:16:54 19 just looking to, A, see his grandchildren again but
09:16:59 20 also foster communication between father and the
09:17:01 21 children. So he could schedule calls with them if the
09:17:05 22 children are at his house. He can phone call SCI and
09:17:09 23 see about getting some contact that way.

09:17:11 24 THE COURT: Let's talk about does [A.P.]
09:17:18 25 know that father is not her bio father?

09:17:23 1 THE FATHER: Depends on --

09:17:25 2 THE MOTHER: Yes, Your Honor.

09:17:26 3 THE COURT: Okay. But does she think of
09:17:32 4 father as her father? Did she call him daddy, all that
09:17:36 5 kind of thing?

09:17:37 6 THE MOTHER: She was required to call
09:17:38 7 him daddy. She does not consider him to be a father.

09:17:41 8 THE COURT: How long was she living with
09:17:49 9 psychological father, the father in this case, before
09:17:53 10 he was incarcerated?

09:17:55 11 THE MOTHER: We were together until
09:17:57 12 April of 2016. After that, there was a small period of
09:18:00 13 time where he had her up until the investigation for
09:18:03 14 the child endangerment at which time I made the
09:18:05 15 decision to remove her from the situation.

09:18:07 16 However, after I had filed custody, in
09:18:11 17 conciliation we had established that he did not have
09:18:13 18 legal rights to her. However, she was then added back
09:18:15 19 to the custody case and he has since had essentially
09:18:20 20 50/50 custody.

09:18:22 21 ATTORNEY HARSHBERGER: I would say, Your
09:18:29 22 Honor, just to --

09:18:30 23 THE COURT: Go ahead.

09:18:30 24 ATTORNEY HARSHBERGER: In 2018, the
09:18:32 25 custody order out of Lebanon County granted father

09:18:37 1 primary custody of both children. So that was in
09:18:42 2 effect until father's incarceration -- recent
09:18:45 3 incarceration due to his current charges.

09:18:47 4 ATTORNEY BODENE: I believe the -- let's
09:18:55 5 see here. The 2019 order -- that is correct, Your
09:19:03 6 Honor. I apologize.

09:19:05 7 THE COURT: So in 2018 or 2019, Lebanon
09:19:08 8 County gave father 50/50 of both children, the subject
09:19:12 9 of father being psychological father in loco parentis,
09:19:18 10 whatever word you want to use, hasn't that really been
09:19:20 11 decided by Lebanon County and aren't I bound by that?

09:19:25 12 THE MOTHER: I think it is a much more
09:19:29 13 complex situation than that. The 2019 -- the
09:19:33 14 January 2019 agreement, it was an agreement actually.
09:19:35 15 And this came about because I had a protection order on
09:19:38 16 father for me and both children for no contact for all
09:19:41 17 three of us due to child abuse and for domestic
09:19:44 18 violence and stalking and some other issues that had
09:19:46 19 come about. Approximately four months into this, Judge
09:19:49 20 Kline simply decided that we were no longer going to be
09:19:55 21 abiding by the protection order and I could either go
09:19:55 22 back to the prior custody order or go to jail that day,
09:19:58 23 which obviously is not a decision that I can make. I
09:20:01 24 can't protect my children if I'm in jail. So that
09:20:04 25 decision was made.

09:20:04 1 From that point on, my -- none of the
09:20:08 2 child safety issues were allowed to be addressed in
09:20:10 3 court. And I had decided by the time that we had
09:20:13 4 reached the final custody hearing, that that was
09:20:17 5 probably the best that I was going to get.

09:20:20 6 THE COURT: well, I think it is res
09:20:25 7 judicata. I think father's being the psychological
09:20:28 8 father, I think it has been decided by Lebanon County.
09:20:33 9 I think I'm stuck with that whether I like it or not.
09:20:36 10 But I'll hear anything that you have to say, Attorney
09:20:38 11 Bodene.

09:20:38 12 ATTORNEY BODENE: Thank you, Your Honor.
09:20:39 13 We would object to his being psychological father. We
09:20:42 14 do not believe it is res judicata. It is not something
09:20:45 15 that the Court has ever actually overtly ruled on.
09:20:47 16 There has been a lot of litigation, some of which has
09:20:51 17 included both kids, some of which included one kid.
09:20:55 18 Honestly, it is a mess if I can put it that way and
09:20:57 19 needs to be clarified.

09:21:00 20 The main polestar is whether it is in
09:21:03 21 [A.P.]'s best interest to have Mr. Hexter as her
09:21:08 22 psychological father. And our argument that we hope to
09:21:11 23 flush out through testimony is because of his criminal
09:21:15 24 situation, the fact that he won't be physically
09:21:18 25 available to parent at the very earliest for another

09:21:22 1 four years, and most likely in my experience probably
09:21:24 2 more likely for another nine years. How could it
09:21:29 3 possibly be in her best interest for that to be the
09:21:32 4 case?

09:21:33 5 THE COURT: Were either of these
09:21:34 6 children the victims of the --

09:21:36 7 ATTORNEY BODENE: Not of the involuntary
09:21:41 8 deviate sexual intercourse. But yes, the endangering
09:21:43 9 welfare of children which he was convicted for. He
09:21:46 10 pled to back in 2018. He was on probation for that.
09:21:50 11 And the IDSI was actually a violation of that
09:21:56 12 probation.

09:21:56 13 THE COURT: And a new charge?

09:21:58 14 ATTORNEY BODENE: Yes, Your Honor.

09:21:59 15 THE COURT: Okay. All right. There is
09:22:02 16 nothing simple about this, is there?

09:22:03 17 ATTORNEY BODENE: No, Your Honor.

09:22:04 18 ATTORNEY HARSHBERGER: So I mean --

09:22:06 19 THE COURT: Go ahead.

09:22:07 20 ATTORNEY HARSHBERGER: We have an order
09:22:09 21 from January 23rd of 2019 which made the December 7,
09:22:17 22 2018, a permanent order which the parties have shared
09:22:19 23 legal custody of the two children.

09:22:22 24 These are the two children that are at
09:22:24 25 issue. I believe that that is a settled case and not

09:22:30 1 to uproot the custody that has been occurring since
09:22:34 2 2018 and prior when they lived together. This would
09:22:38 3 actually be detrimental to the child saying you no
09:22:41 4 longer have a father.

09:22:42 5 THE COURT: That's a separate issue.
09:22:44 6 Whether it is in [A.P.]'s best interest to whatever
09:22:49 7 rights may be with father is a little bit of a separate
09:22:51 8 issue as to whether he's psychological father of her.
09:22:57 9 It is a little like standing. It is a separate issue.

09:23:00 10 It does not necessarily mean -- it is
09:23:02 11 not necessarily dictating what the rights of the parent
09:23:05 12 will be. All right. And so let's try to do a full 360
09:23:14 13 here.

09:23:15 14 What is mother's position then on
09:23:18 15 both -- well, start with what is her position on father
09:23:21 16 having phone access and information, not joint legal
09:23:30 17 custody, but information and records and such?

09:23:32 18 ATTORNEY BODENE: As far as [R.H.], the
09:23:34 19 younger child, she has no objection to that. She would
09:23:36 20 just ask that the phone contact be scheduled so that
09:23:39 21 they can know when it is going to occur. She has no
09:23:42 22 problem with that.

09:23:44 23 As far as [A.P.], the older child, she
09:23:47 24 does object based on the psychological parent issue.
09:23:50 25 And then as far as paternal grandfather, her position

09:23:53 1 is and has always been that she has no problem with
09:23:57 2 there being a relationship. She acknowledges there has
09:23:59 3 been a normal grandparent relationship.

09:24:01 4 what she objects to is the court-ordered
09:24:03 5 mandated time of partial custody. That greatly exceeds
09:24:07 6 what he has ever exercised or asked for in the past.

09:24:23 7 THE COURT: Okay.

09:24:24 8 ATTORNEY BODENE: Could I add just one
09:24:25 9 more thing, Your Honor?

09:24:25 10 THE COURT: We are in preliminary
09:24:26 11 matters. So please go ahead.

09:24:28 12 ATTORNEY BODENE: Just while we are sort
09:24:30 13 of honing in on the issues just to, again, my
09:24:34 14 understanding per our conversation pre-trial is that
09:24:37 15 all contemptes have been withdrawn. So those are not on
09:24:39 16 the table.

09:24:42 17 I have provided my proposed exhibits to
09:24:44 18 opposing counsel. And with permission, I'll approach
09:24:47 19 and provide to the Court my proposed exhibits as well.

09:24:50 20 THE COURT: Absolutely. Same for you,
09:24:52 21 Attorney Harshberger.

09:24:59 22 ATTORNEY HARSHBERGER: I'll need to mark
09:25:01 23 them, Your Honor, collectively as 1 and 2.

09:25:36 24 THE COURT: You know, Attorney
09:25:39 25 Harshberger, exhibits are to be premarked.

09:25:41 1 ATTORNEY HARSHBERGER: I apologize, Your
09:25:42 2 Honor.

09:25:42 3 THE COURT: Let the record reflect I've
09:25:44 4 got copies of both counsels' proposed exhibits.
09:25:47 5 Anything else of a preliminary nature?

09:25:51 6 ATTORNEY HARSHBERGER: I'm not sure.
09:25:52 7 Did we -- my position on the estoppel or the parental
09:25:59 8 of father, my argument is this is a separate matter.
09:26:03 9 This is from at least no later than 2018 that father
09:26:06 10 was granted custody of both children. To reopen that I
09:26:11 11 think would be barred by res judicata. And we had many
09:26:19 12 other, many other court appearances and mother has not
09:26:24 13 raised this issue until today.

09:26:26 14 THE COURT: Let me ask another question
09:26:28 15 on that. When is the last time that [A.P.] had any
09:26:31 16 contact with bio father?

09:26:34 17 ATTORNEY HARSHBERGER: That would have
09:26:35 18 been August of 2021 whenever before he was
09:26:38 19 incarcerated.

09:26:39 20 THE COURT: No. [A.P.] of bio father.

09:26:42 21 ATTORNEY HARSHBERGER: My fault.

09:26:45 22 ATTORNEY BODENE: I'm sorry. Biological
09:26:50 23 father.

09:26:50 24 THE COURT: I shouldn't use bio. I
09:26:52 25 confused both counsel. I apologize. Biological

09:26:55 1 father. We use that term in dependency court all of
09:26:57 2 the time. I apologize. When is the last time [A.P.]
09:27:01 3 had any contact with her biological father whose name I
09:27:05 4 don't even know?

09:27:06 5 ATTORNEY BODENE: Never, Your Honor.

09:27:09 6 ATTORNEY HARSHBERGER: He says never
09:27:10 7 also.

09:27:11 8 THE COURT: Well, I will just let you
09:27:13 9 know subject to hearing whatever I'm going to hear, I
09:27:18 10 am at this point strongly inclined to find that father
09:27:20 11 is the psychological father if for no other reason
09:27:25 12 that's already been determined by Lebanon County.

09:27:28 13 Plus, if she hasn't seen bio father,
09:27:32 14 biological father, ever, I think in loco parentis kicks
09:27:38 15 in big time. So I'll hear what you have to present,
09:27:41 16 Attorney Bodene. But I think that probably that horse
09:27:46 17 has gotten out of the gate already.

09:27:47 18 ATTORNEY BODENE: Your Honor, just to
09:27:48 19 clarify our position, as I reviewed the docket from
09:27:53 20 Lebanon County and orders, while we obviously fully
09:27:56 21 acknowledge January '19 and March '19 order in which
09:28:01 22 Mr. Kristoffer Hexter has custody of both children, I
09:28:06 23 didn't see ever an explicit mention by the Court on
09:28:10 24 this specific issue.

09:28:11 25 THE COURT: I hear you. And I want to

09:28:14 1 make it clear just because I'm leaning towards father
09:28:19 2 being a psychological father does not necessarily mean
09:28:22 3 if I heard testimony appropriate that I might not make
09:28:27 4 the children's rights different. Okay. That does not
09:28:31 5 preclude that possibility.

09:28:33 6 ATTORNEY BODENE: Understood.

09:28:34 7 THE COURT: It is a little like
09:28:35 8 standing. You only get to first base. You haven't
09:28:38 9 crossed the plate and gotten your run. Okay.

09:28:43 10 ATTORNEY BODENE: If I may, Your Honor.

09:28:44 11 THE COURT: Sure.

09:28:44 12 ATTORNEY BODENE: Your Honor, if you
09:28:46 13 would indulge, and I appreciate it, just one more
09:28:47 14 point. I would disagree with counsel. My client has
09:28:50 15 objected to this issue in the past. This is not the
09:28:53 16 first time we are -- you look through the docket.
09:28:56 17 Again, there are times when [A.P.] is included, times
09:28:59 18 when [A.P.] is not included. And frankly, I think
09:29:02 19 there is a lot of confusion. Our position is that it
09:29:06 20 was never really ironed out. But I'll leave that for
09:29:09 21 the Court.

09:29:10 22 THE COURT: Okay. Anything else of a
09:29:16 23 preliminary nature before I interview [A.P.]?

09:29:19 24 ATTORNEY HARSHBERGER: No.

09:29:19 25 THE COURT: Attorney Harshberger, I'm

09:29:20 1 fully aware of your request that she not see father in
09:29:25 2 prison orange. So I'm having my tipstaff bring her
09:29:30 3 around through the private entrance to go into my jury
09:29:33 4 room back here so she is not going to walk passed him.

09:29:39 5 ATTORNEY HARSHBERGER: Father would love
09:29:41 6 to see her. But after consulting with him, I think it
09:29:45 7 would be better that she wouldn't seen him in orange.

09:29:47 8 THE COURT: I assume counsel wants to be
09:29:49 9 present during the interview of [A.P.]?

09:29:51 10 ATTORNEY BODENE: Yes, Your Honor.

09:29:53 11 THE COURT: Without further ado, let's
09:29:53 12 go back to the jury room with the court reporter.
09:29:58 13 Frank, bring her around the private entrance to the
09:30:04 14 jury room, please.

15 (The Court interviewed [A.P.] in the
16 jury room with counsel present. The testimony was
09:30:06 17 stenographically recorded but not transcribed.)

09:30:06 18 (The proceedings continued in the
10:20:24 19 courtroom.)

10:20:25 20 THE COURT: Let the record reflect the
10:20:28 21 Court did interview [A.P.]. Very intelligent and
10:20:32 22 articulate young lady. Taught her a new word,
10:20:37 23 loquacious. I tried to explain to her she was a little
10:20:39 24 bit that way. At any rate, we had a great chat.

10:20:45 25 After talking with [A.P.], I talked to

10:20:47 1 your counsel. I have some pretty strong leanings on
10:20:52 2 where I think this case should go, and I want your
10:20:56 3 counsel to talk to each of you and see if you can't
10:20:58 4 reach an agreement.

10:21:00 5 Let me start at the back end. Main
10:21:03 6 reason I'd like you to reach an agreement is because I
10:21:06 7 think long term the best interest of these children
10:21:10 8 would be for mother and Pop Pop to get a better
10:21:13 9 relationship with each other. We talked about maybe
10:21:17 10 [A.P.] getting some counseling or whatever because
10:21:23 11 she's got some things to deal with.

10:21:24 12 She asked, you know, why she can't know
10:21:29 13 her biological father. She's got some questions out
10:21:31 14 there that I think some therapy would be excellent for
10:21:35 15 her.

10:21:36 16 But my leanings are very simple in that
10:21:40 17 there would not be any contact between father and
10:21:45 18 [A.P.]. Of course, phone contact between [R.H.] and
10:21:51 19 his father would be fine. Of course, father would get
10:22:00 20 information; educational, medical, all those
10:22:07 21 information things for both children. That's pretty
10:22:10 22 much standard stuff there.

10:22:13 23 And that for grandfather, that he would
10:22:16 24 get maybe eight hours once a month or once every four
10:22:22 25 weeks. I mean [A.P.], you know, I mean she called him

10:22:30 1 Pop Pop. But she wasn't real eager to spend a lot of
10:22:34 2 time with him. But I think with some time and as the
10:22:39 3 relationship builds, that might change. And frankly, I
10:22:42 4 would like to see it change because grandparents are
10:22:45 5 important for children.

10:22:47 6 I revealed to your attorneys, I have
10:22:50 7 seven grandchildren. So I know a little something
10:22:54 8 about being a grandfather. But, of course, while
10:22:59 9 [A.P.] would be with grandfather, there would be no
10:23:05 10 contact between father and [A.P.] while she is there.
10:23:09 11 And the thought being maybe with time, [A.P.] would be
10:23:18 12 more open to spend a little more time with grandfather.
10:23:21 13 That would require a petition to modify.

10:23:25 14 I'm not going to try to predict the
10:23:28 15 future at this point. I would certainly be open or
10:23:31 16 negotiated with mother without having to come to court,
10:23:34 17 that's ideal. That eight hours on Saturday or Sunday
10:23:39 18 once every month or once every four weeks, that would
10:23:42 19 be it. There would be no summer vacation, none of that
10:23:45 20 thing.

10:23:45 21 But again, the hope would be that that
10:23:47 22 would build into more as time goes on and as [A.P.]
10:23:52 23 gets older and she has some therapy so she can deal
10:23:57 24 with some of these issues. It's probably pretty
10:24:01 25 difficult for any of you to try to get into [A.P.]'s

10:24:05 1 mind. I spent some substantial time with her, and I
10:24:07 2 think got into her mind pretty well.

10:24:09 3 She has got some confusion on biological
10:24:13 4 father, brother's father. How all that interacts, Pop
10:24:17 5 Pop. She got some things to sort out. And I
10:24:21 6 definitely think some therapy there would be a big
10:24:24 7 help.

10:24:27 8 Sometimes therapists come up with
10:24:29 9 recommendations that there might be a therapeutic
10:24:33 10 letter writing between [A.P.] and her father. You
10:24:37 11 know, who knows what the therapist might come up with.
10:24:41 12 I wouldn't order that in advance. But that certainly
10:24:46 13 could be something that either the parties would agree
10:24:48 14 to or father or grandfather could bring in a
10:24:51 15 modification later. But that's where I'm leaning. I'm
10:24:54 16 leaning pretty strongly. Each of your attorneys tried
10:24:58 17 to persuade me more their way and they both failed.

10:25:03 18 All due respect, they did a good job.
10:25:06 19 I'm leaning that way. Quite frankly, I'm leaning
10:25:08 20 pretty hard because there is nothing to be gained and a
10:25:13 21 lot to be lost by spending the next couple of hours
10:25:17 22 having everybody trash everybody else because mom,
10:25:22 23 grandpa, Pop Pop, and eventually dad at least are going
10:25:30 24 to have to deal with each other at weddings, funerals,
10:25:32 25 bar mitzvahs, and who knows what, graduations for many,

10:25:37 1 many years. And those are all going to go better and
10:25:40 2 these children are going to thrive better if you can
10:25:44 3 let the past be in the past and try to get along a
10:25:47 4 little better and try to go on into the future. So
10:25:52 5 that is best done if there is a settlement reached.

10:25:59 6 So I'm going to let your attorneys talk
10:26:01 7 to each of you and do a little arm -- not arm twisting,
10:26:05 8 a little convincing and see if you can come up with an
10:26:08 9 agreement. Counsel, let my tipstaff, the short guy
10:26:12 10 here, Frank, know when you need me for more testimony
10:26:16 11 or for a stipulation, whichever. Okay.

10:26:19 12 ATTORNEY BODENE: Thank you, Your Honor.

10:26:20 13 ATTORNEY HARSHBERGER: Thank you.

10:26:21 14 THE COURT: Good luck.

10:26:22 15 ATTORNEY BODENE: Thank you.

10:26:26 16 (Recess.)

11:01:27 17 THE COURT: Okay. All right. I
11:01:29 18 understand we are going to go forward with the trial.

11:01:32 19 ATTORNEY BODENE: Yes, Your Honor.

11:01:32 20 THE COURT: And I already have your
11:01:36 21 joint stipulation of facts. Have counsel talked about
11:01:39 22 what order to have witnesses be presented?

11:01:44 23 ATTORNEY BODENE: I believe Attorney
11:01:48 24 Harshberger is in agreement that Kristoffer Hexter
11:01:51 25 should be first because he's from SCI and would be the

11:01:54 1 most difficult to bring him back if we have to come
11:01:57 2 back.

11:01:58 3 THE COURT: So you're ready to have
11:02:03 4 father testify?

11:02:04 5 ATTORNEY HARSHBERGER: Yes.

11:02:04 6 THE COURT: Okay. Please stand and
11:02:12 7 raise your right hand. You can testify from right
11:02:13 8 there.

11:02:14 9 * * *

10 KRISTOFFER HEXTER,

11 called as a witness

12 having been duly sworn according to law,

13 testified as follows:

11:02:20 14 * * *

11:02:20 15 THE CLERK: Please be seated. Please
11:02:25 16 state and spell your first and last name.

11:02:26 17 THE CHILD: Kristoffer Hexter,
11:02:29 18 K-r-i-s-t-o-f-f-e-r, H-e-x-t-e-r.

11:02:35 19 THE COURT: All right. Attorney
11:02:37 20 Harshberger, go ahead.

21 ATTORNEY HARSHBERGER: Thank you, Your
22 Honor.

23 * * *

11:02:39 24 DIRECT EXAMINATION

11:02:39 25 BY ATTORNEY HARSHBERGER:

11:02:40 1 Q. Good morning, Kris. How are you doing today?

11:02:42 2 A. I'm doing well.

11:02:43 3 Q. And you understand why you're here today?

11:02:45 4 A. Yes.

11:02:46 5 Q. What is your understanding of what we are

11:02:48 6 doing today?

11:02:48 7 A. Establishing certain parental rights and

11:02:52 8 grandparent rights for myself and my father for both of

11:02:56 9 my children.

11:02:57 10 Q. You're currently -- where are you currently

11:02:59 11 housed at?

11:03:00 12 A. SCI Phoenix.

11:03:07 13 Q. How long are you scheduled to be there?

11:03:10 14 A. 54 months.

11:03:11 15 Q. What is your parole date?

11:03:14 16 A. February 13th, 2026.

11:03:16 17 Q. Now, if you could, just give us a brief

11:03:23 18 history of this case. I guess -- well, let me

11:03:29 19 rephrase. How many children are involved in the case?

11:03:34 20 A. Two.

11:03:34 21 Q. What are their names?

11:03:36 22 A. [A.P.] and [R.H.].

11:03:37 23 Q. And how old is [A.P.]?

11:03:39 24 A. Eight.

11:03:39 25 Q. And how old is [R.H.]?

11:03:41 1

A. Six.

11:03:42 2

Q. And is [A.P.] your child biologically?

11:03:46 3

A. Biologically, no.

11:03:49 4

Q. Can you explain to me when you first met

11:03:51 5

[A.P.]?

11:03:52 6

A. At birth.

11:03:53 7

Q. So were you with mother -- and who is the

11:03:57 8

mother?

11:03:58 9

A. I was with mother in the delivery room and

11:04:00 10

mother is Sara Pickett.

11:04:02 11

Q. Were you together with mother prior to

11:04:06 12

[A.P.]'s birth?

11:04:06 13

A. Yes, for a few months.

11:04:08 14

Q. And did you assist mother in prenatal care?

11:04:13 15

A. Towards the end, yes.

11:04:15 16

Q. And so she was seven to nine months pregnant

11:04:21 17

when you first met her?

11:04:22 18

A. Correct.

11:04:22 19

Q. And were you moved in with Sara at the time?

11:04:25 20

A. She was moved in with me.

11:04:26 21

Q. And you and her, did you take her to the

11:04:32 22

hospital for birth?

11:04:33 23

A. Yes.

11:04:33 24

Q. Now when [A.P.] was born, did you treat

11:04:38 25

[A.P.] as your child?

11:04:39 1 A. I did.

11:04:40 2 Q. And were you and Sara living together?

11:04:43 3 A. Yes.

11:04:44 4 Q. When did you and Sara separate?

11:04:46 5 A. Roughly a year after my son's birth.

11:04:50 6 Q. And so do you know the date or year?

11:04:54 7 A. It was around April 2016.

11:04:57 8 Q. So [A.P.] was about three years old when you

11:05:01 9 separated?

11:05:01 10 A. That's correct.

11:05:02 11 Q. And at that time, what was the custodial

11:05:07 12 arrangement of both children?

11:05:08 13 A. At that time, I was still employed at the

11:05:13 14 Army Depot. I would have the children on weekends,

11:05:17 15 every weekend from Thursday -- Thursday morning until

11:05:21 16 Sunday morning.

11:05:22 17 Q. And how long did that arrangement last, from

11:05:26 18 2016 until when?

11:05:27 19 A. Until the most recent custody order to where

11:05:32 20 I gained primary custody.

11:05:36 21 Q. So there was a filing for custody in Lebanon

11:05:40 22 County?

11:05:40 23 A. Correct.

11:05:41 24 Q. And through the agreement and order of court,

11:05:45 25 you were essentially granted primary custody; is that

11:05:49 1 my understanding?

11:05:50 2 A. Yes.

11:05:50 3 Q. What was your level of -- what was your days?

11:05:54 4 A. Friday afternoon at 1:00 until Tuesday
11:05:58 5 afternoon at 1:00.

11:06:00 6 Q. And during this time, did the children go to
11:06:03 7 school at your school district?

11:06:06 8 A. Yes.

11:06:07 9 Q. What school district was that?

11:06:10 10 A. North Lebanon.

11:06:12 11 Q. And so how is [A.P.] doing in school?

11:06:14 12 A. She was doing particularly well when she was
11:06:19 13 going brick and mortar school, kindergarten. For her
11:06:22 14 first grade year, mother transferred to an online
11:06:27 15 service in which she was struggling a little bit just
11:06:32 16 because of a little bit of attention span issue.

11:06:38 17 Q. Now, when you were doing the online school,
11:06:43 18 you and mom were both assisting the child in educating
11:06:46 19 her, correct?

11:06:47 20 A. I cannot tell you what mother was doing.

11:06:51 21 Q. I mean what were you doing?

11:06:53 22 A. I was logging into courses and I was sitting
11:06:55 23 with her while she was online. Basically monitoring
11:07:00 24 her class until class time was finished.

11:07:02 25 Q. Now for both children, did you attend medical

11:07:06 1 appointments for them?

11:07:07 2 A. Yes.

11:07:09 3 Q. You were at the birth of [A.P.]. Were you at
11:07:09 4 the birth of [R.H.]?

11:07:10 5 A. Yes.

11:07:10 6 Q. And did you go to their normal checkups?

11:07:13 7 A. Yes.

11:07:13 8 Q. And then further on out, you went to their
11:07:16 9 yearly checkups?

11:07:17 10 A. Correct.

11:07:17 11 Q. Was there any counseling established for the
11:07:21 12 children when you had primary in 2019?

11:07:24 13 A. Yes. I had home-based family counseling with
11:07:28 14 a counselor traveling to our home, and we had on
11:07:32 15 average two hour sessions per week.

11:07:34 16 Q. And how did that counseling come into play?
11:07:37 17 I mean what caused counseling to occur?

11:07:40 18 A. Behavioral issues within the children.

11:07:43 19 Q. And were there involvement with Children and
11:07:45 20 Youth agencies?

11:07:46 21 A. Yes, there was several times.

11:07:48 22 Q. And which county?

11:07:49 23 A. Lebanon.

11:07:50 24 Q. And did they advise you to get the children
11:07:54 25 in counseling?

11:07:54 1 A. They had referenced and said it may be a good
11:07:59 2 idea.

11:07:59 3 Q. In any of those involvements with Children
11:08:04 4 and Youth, was there anything either founded or
11:08:06 5 indicated against you and/or mother?

11:08:08 6 A. Not to my knowledge for either party.

11:08:14 7 Q. Now during your time with the children, did
11:08:18 8 your father ever, even from birth, was your father ever
11:08:25 9 involved?

11:08:26 10 A. Yes, sir.

11:08:26 11 Q. Who is your father?

11:08:27 12 A. Bruce Hexter.

11:08:29 13 Q. Where is he seated?

11:08:30 14 A. To my left.

15 ATTORNEY HARSHBERGER: Let the record
11:08:32 16 reflect he has identified the Intervenor, Mr. Bruce
11:08:35 17 Hexter.

11:08:36 18 BY ATTORNEY HARSHBERGER:

11:08:37 19 Q. So can you explain a little bit how Bruce was
11:08:41 20 involved with the children? Was he at any of the
11:08:45 21 children's births?

11:08:47 22 A. He arrived after the birth but still while in
11:08:50 23 the hospital.

11:08:51 24 Q. Is that for both children?

11:08:53 25 A. Yes.

11:08:53 1 Q. And so he met [A.P.] the day she was born?

11:08:56 2 A. Day after.

11:08:59 3 Q. And then he met [R.H.] shortly after his
11:09:02 4 birth?

11:09:02 5 A. That's correct.

11:09:03 6 Q. And then during you and Sara together, was
11:09:09 7 Mr. -- was Bruce -- did he come visit?

11:09:12 8 A. Yes, he was involved.

11:09:13 9 Q. Where were you and Sara residing at again?

11:09:16 10 A. In Lebanon County, Johnstown more
11:09:18 11 specifically.

11:09:19 12 Q. And how far away did Bruce live from your
11:09:22 13 residence?

11:09:23 14 A. About an hour and 15 minutes.

11:09:25 15 Q. And so how often do you believe, if you can
11:09:29 16 recall, when the children were young and you and Sara
11:09:33 17 were together, how often did Bruce come and visit his
11:09:36 18 grandchildren?

11:09:36 19 A. On average once every month to every other
11:09:41 20 month.

11:09:41 21 Q. Okay. And how long would he stay?

11:09:44 22 A. At my residence, he would stay about a day.

11:09:48 23 Q. okay. would he help to change diapers?

11:09:51 24 A. Yes.

11:09:52 25 Q. would he help bathe the children?

11:09:54 1 A. No. He was not involved in the bathing
11:09:58 2 process, but he was involved in feeding.
11:10:00 3 Q. Feed and change them?
11:10:02 4 A. Yes.
11:10:02 5 Q. Okay. would he hold them?
11:10:05 6 A. Absolutely.
11:10:06 7 Q. Did he show affection towards the children?
11:10:08 8 A. Yes.
11:10:08 9 Q. Did he seem to show a different or favoritism
11:10:13 10 between [R.H.] and [A.P.]?
11:10:15 11 A. No.
11:10:15 12 Q. Did he seem to show any difference that
11:10:18 13 [A.P.] wasn't biologically his?
11:10:21 14 A. No.
11:10:22 15 Q. So based upon -- to you did he treat both
11:10:26 16 children equally as if they were his own biological
11:10:29 17 grandchildren?
11:10:30 18 A. Yes.
11:10:30 19 Q. Now after you and Sara separated, did you
11:10:35 20 still reside in Lebanon?
11:10:36 21 A. Yes, I did.
11:10:36 22 Q. And did Bruce -- did you rely on Bruce more
11:10:43 23 now because you didn't have Sara?
11:10:44 24 A. Slightly more, yes.
11:10:47 25 Q. And what did that slightly more interaction

11:10:50 1 look like?

11:10:50 2 A. That included more phone calls, video calls
11:10:54 3 between the kids, more frequent visitation whether it
11:10:58 4 was him coming to me or me coming to him. He would
11:11:01 5 volunteer to take the kids overnight whether it be just
11:11:05 6 a single overnight or for an entire weekend.

11:11:08 7 Q. Now let's talk about that. How often or when
11:11:12 8 was the last time that you can recall Bruce spending an
11:11:18 9 overnight with the children?

11:11:20 10 A. Last summer prior to my incarceration.

11:11:24 11 Q. Was that the month of August or July?

11:11:28 12 A. July.

11:11:29 13 Q. And when were you incarcerated?

11:11:33 14 A. August of '21.

11:11:34 15 Q. Let's go back to right before you were
11:11:36 16 incarcerated. [A.P.] and [R.H.], July, they had a
11:11:41 17 week -- or was that -- what was that timeframe, was it
11:11:44 18 a weekend or was it one overnight?

11:11:47 19 A. Four -- well, four days, three nights.

11:11:51 20 Q. Okay. And is that an unusual amount of time
11:11:58 21 that he had with them?

11:11:59 22 A. No. And usually on those lengths of time on
11:12:03 23 the first day, I'll spend a majority of my time with
11:12:08 24 them and then release them to my dad for overnight.
11:12:11 25 And then he would be with them solo for the

11:12:15 1 intermediate time and then we would have a collective
11:12:16 2 get-together on that final day.

11:12:18 3 Q. Is that because this was the summertime, you
11:12:22 4 had spent more overnights with the children?

11:12:23 5 A. Yes.

11:12:24 6 Q. And during the school year, let's go back to
11:12:28 7 like the beginning of 2021 then. During that
11:12:33 8 timeframe, during the school year, how often would you
11:12:39 9 either go to Bruce or Bruce would come to you to see
11:12:42 10 his grandchildren?

11:12:43 11 A. At least once a month.

11:12:45 12 Q. And what did you and the children do with
11:12:55 13 Bruce?

11:12:55 14 A. We would go shopping, go to different parks,
11:12:59 15 go fishing, a lot of outdoor activities, go on short
11:13:05 16 hikes.

11:13:06 17 Q. Did either child express any kind of fear or
11:13:11 18 displeasure of grandfather?

11:13:14 19 A. Not that I personally ever seen.

11:13:18 20 Q. Did they seem to have fun with grandfather?

11:13:28 21 A. Yes.

11:13:28 22 Q. Now given that you're incarcerated for a
11:13:42 23 lengthy period of time, what are you seeking as far as
11:13:46 24 any kind of custody?

11:13:47 25 A. Obviously no physical custody, but I am

11:13:52 1 seeking phone and video visitations.

11:13:56 2 Q. Okay. And can you tell me if you had a
11:14:03 3 discussion with the children prior to your
11:14:05 4 incarceration? Did you tell them you were going to be
11:14:10 5 incarcerated or did you just disappear on them and not
11:14:14 6 let them know what was going on?

11:14:15 7 A. Not specifically. I did not tell them where
11:14:18 8 I was going, but I did say that I would not be around
11:14:20 9 for a while.

11:14:22 10 Q. And?

11:14:23 11 A. And that I would be trying to call them as
11:14:27 12 soon as I could. I just didn't know when that time
11:14:30 13 would be.

11:14:30 14 Q. Have you tried to call them?

11:14:32 15 A. Yes.

11:14:33 16 Q. And were you -- were you using a number that
11:14:37 17 was given to you at a custody conference in Lebanon?

11:14:40 18 A. Yes.

11:14:41 19 Q. Has that number worked?

11:14:43 20 A. I have not been able to make contact through
11:14:46 21 the original number I received.

11:14:48 22 Q. All right. And did you recently learn of a
11:14:50 23 new number that was provided?

11:14:53 24 A. I did.

11:14:54 25 Q. When did you learn of that number?

11:14:56 1 A. Roughly a week ago.

11:14:57 2 Q. And did you -- were you able to use that
11:15:02 3 number and call again?

11:15:03 4 A. Not at this point in time because the numbers
11:15:06 5 once they are added, they have to be added to an
11:15:08 6 approved list.

11:15:10 7 Q. Did the children, [A.P.] and/or [R.H.], were
11:15:17 8 they -- did they want contact with you before you left?

11:15:22 9 A. Yes.

11:15:22 10 Q. Did [A.P.] or [R.H.] express the desire to
11:15:29 11 talk to you?

11:15:30 12 A. Yes.

11:15:31 13 Q. How so?

11:15:33 14 A. When I had mentioned that I was going to be
11:15:37 15 unavailable, that I would still try to make contact
11:15:39 16 with them, [A.P.] asked me if the calls I would make
11:15:44 17 were through video.

11:15:45 18 Q. Now you understand that [A.P.] was in
11:15:52 19 counseling prior?

11:15:53 20 A. Yes.

11:15:53 21 Q. Are you -- do you want [A.P.] and/or [R.H.]
11:16:00 22 in counseling now?

11:16:01 23 A. I believe it would be beneficial, yes.

11:16:03 24 Q. Why do you believe it would be beneficial?

11:16:05 25 A. Because my children are going through a lot

11:16:09 1 of changes and a lot of thoughts have been running
11:16:15 2 through their heads. I can only imagine that them
11:16:19 3 being able to speak in confidence to somebody who is
11:16:21 4 not exactly an authoritative figure may be able to get
11:16:28 5 things straight with them.

11:16:29 6 Q. Would you be okay if we started contact
11:16:33 7 through -- for [A.P.] that is, if the court order
11:16:38 8 contact through a therapeutic source? Would you be
11:16:43 9 okay with that?

11:16:44 10 A. Yes.

11:16:44 11 Q. Is that -- is that your ultimate desire?

11:16:47 12 A. Ultimately, no. I would like to contact my
11:16:50 13 daughter without any type of mediation.

11:16:52 14 Q. You would understand that given the time that
11:16:55 15 you have been unable to call her either through no
11:16:59 16 fault of your own or at your fault, you understand that
11:17:04 17 therapeutic counseling would be in her best interest to
11:17:06 18 foster the communication?

11:17:06 19 A. Yes.

11:17:07 20 Q. Both children you said were in counseling.
11:17:16 21 Do you remember the counselor's name or facility?

11:17:18 22 A. Tom Snyder was his name. And he was a
11:17:22 23 referral through Lebanon County Children and Youth
11:17:24 24 Services.

11:17:24 25 Q. Do these children have any kind of medical

11:17:32 1 issues that you're aware of?

11:17:37 2 A. That I'm aware of, no. When I left my
11:17:39 3 children, they were in good health.

11:17:41 4 Q. Have you been -- has mother given you any
11:17:45 5 information regarding the children's medical updates
11:17:49 6 since your incarceration?

11:17:50 7 A. None.

11:17:51 8 Q. Has mother given you any information
11:17:53 9 regarding the children's school since you were
11:17:56 10 incarcerated?

11:17:57 11 A. None.

11:17:58 12 Q. Do you know if mother provided anything to
11:18:01 13 grandfather to give to you?

11:18:02 14 A. To my knowledge, no.

11:18:04 15 Q. Has mother tried to make contact with you
11:18:08 16 while you were incarcerated?

11:18:09 17 A. No.

11:18:10 18 Q. Do you have any other children, Kris?

11:18:20 19 A. Yes, I do.

11:18:20 20 Q. How many other children?

11:18:22 21 A. One.

11:18:23 22 Q. Where is that child at?

11:18:25 23 A. Lebanon County.

11:18:26 24 Q. And does your father see that child?

11:18:30 25 A. Yes.

11:18:31 1 Q. Is it your hope that Bruce would assist in
11:18:38 2 the sibling relationship between [R.H.] and [A.P.]?

11:18:43 3 A. Yes.

11:18:43 4 Q. Do you have any concerns about the way Bruce
11:18:51 5 is with your children?

11:18:52 6 A. No, I don't.

11:18:55 7 Q. Now, do you want your father to be involved
11:19:09 8 in this custody action through a court order?

11:19:12 9 A. Yes.

11:19:22 10 ATTORNEY HARSHBERGER: The Court's
11:19:23 11 indulgence.

11:19:27 12 THE COURT: Sure.

11:19:27 13 BY ATTORNEY HARSHBERGER:

11:19:54 14 Q. Who was the other child's mother?

11:19:56 15 A. Taylor Fabio (phonetic).

11:20:00 16 Q. Does Taylor and Bruce have a good
11:20:07 17 relationship?

11:20:07 18 A. From my understanding, there have been no
11:20:10 19 issues.

11:20:11 20 Q. From your understanding, how often does Bruce
11:20:15 21 talk with or see your other child?

11:20:18 22 A. I cannot give an honest answer to that.

11:20:25 23 THE COURT: What is that child's name?

11:20:26 24 THE WITNESS: [A.H.], same last name as
11:20:28 25 me.

11:20:28 1 THE COURT: How old is [A.H.]?

11:20:30 2 THE CHILD: Two, Your Honor.

11:20:31 3 GRANDFATHER: Just turned three. Just
11:20:37 4 had a birthday the other day.

11:20:39 5 THE COURT: Thank you. Go ahead,
11:20:40 6 Attorney Harshberger.

11:20:42 7 ATTORNEY HARSHBERGER: Thank you.

11:20:43 8 BY ATTORNEY HARSHBERGER:

11:20:44 9 Q. I want to establish any kind of -- you said
11:20:49 10 that when you were separated in 2021, Bruce would visit
11:20:55 11 at least monthly and he did have some overnights during
11:20:59 12 the summer especially, yes?

11:21:01 13 A. Correct.

11:21:01 14 Q. Now, in between that, did he call and talk to
11:21:05 15 the children or Facebook call them or video chat with
11:21:09 16 them?

11:21:09 17 A. Yes.

11:21:10 18 Q. How often do you believe that the children
11:21:13 19 talked with Bruce?

11:21:16 20 A. At least four times a week.

11:21:20 21 Q. Okay. Now, this is when you had them. Do
11:21:23 22 you know if Bruce ever talked to the children when the
11:21:29 23 children were in custody of mom?

11:21:30 24 A. I would have to say no.

11:21:32 25 Q. And do you know if mom ever utilized Bruce as

11:21:37 1 a baby-sitter or someone to watch the children?

11:21:41 2 A. No.

11:21:41 3 Q. So when the children are with mom, the
11:21:44 4 children do not see Bruce?

11:21:48 5 A. Correct.

11:21:48 6 Q. But when the children were with you, you and
11:21:53 7 Bruce -- or Bruce would come over and see the children
11:21:56 8 and talk with them?

11:21:57 9 A. That's correct.

11:21:58 10 Q. Okay.

11:21:59 11 ATTORNEY HARSHBERGER: I have no further
11:22:00 12 questions, Your Honor.

11:22:00 13 THE COURT: Cross-examination.

11:22:02 14 ATTORNEY BODENE: Thank you, Your Honor.

11:22:03 15 * * *

11:22:03 16 CROSS-EXAMINATION

17 BY ATTORNEY BODENE:

11:22:04 18 Q. Good morning, sir. Just a couple of
11:22:06 19 clarifications first. So the sentence you're serving
11:22:10 20 is for involuntary deviate sexual intercourse of a
11:22:14 21 14-year-old, correct?

11:22:14 22 A. Yes.

11:22:15 23 Q. And that was not just a one time event but it
11:22:18 24 was between the periods of November 4, 2019, and
11:22:21 25 January 26, 2020, that these events occurred, correct?

11:22:25 1 A. Yes.

11:22:25 2 Q. You were 37 at the time?

11:22:27 3 A. Yes.

11:22:27 4 Q. And you mentioned your parole date of
11:22:31 5 sometime in February 2026. But your max date is August
11:22:36 6 of 2031, correct?

11:22:38 7 A. If that's what the paperwork says, then yes.

11:22:41 8 Q. And you're not guaranteed to be paroled on
11:22:44 9 your minimum date, correct?

11:22:45 10 A. Nobody is. That's correct.

11:22:46 11 Q. In fact, you have programming that the prison
11:22:50 12 requires you to complete as part of your sentence,
11:22:54 13 correct?

11:22:54 14 A. Correct.

11:22:54 15 Q. And if you don't complete that programming,
11:22:57 16 you're not going to be released at a minimum until that
11:22:59 17 is completed, right?

11:23:00 18 A. Correct.

11:23:01 19 Q. And this occurred -- this IDSI, involuntary
11:23:10 20 deviate sexual intercourse, was itself a violation of
11:23:14 21 probation that you were already on, correct?

11:23:16 22 A. Correct.

11:23:17 23 Q. And that was for endangering the welfare of
11:23:21 24 the two children we are here to talk about today?

11:23:22 25 A. That's correct.

11:23:23 1 Q. So the contact that you indicated that you
11:23:32 2 tried to have -- let's first talk about since your
11:23:35 3 incarceration August 4th of last year. How many --
11:23:39 4 what is the phone number that you tried calling Ms.
11:23:43 5 Pickett on, do you recall that?

11:23:44 6 A. No, I don't have that information on me.

11:23:46 7 Q. I mean you testified that you called it
11:23:49 8 repeatedly, right?

11:23:50 9 A. Not on a regular basis.

11:23:53 10 Q. Okay. If I were to tell you that her number
11:23:56 11 is (717) 454-9566, does that sound right?

11:24:00 12 A. I couldn't give you an honest answer.

11:24:05 13 Q. Well, how many times did you -- since August
11:24:10 14 of last year since being incarcerated, how many times
11:24:13 15 did you place a phone call to the number that you
11:24:16 16 believed that she would be reachable at?

11:24:18 17 A. One to two times a month because I was trying
11:24:20 18 on weekends.

11:24:21 19 Q. So one to two times a month every month
11:24:26 20 beginning August until when?

11:24:28 21 A. No. It was not since August. It was after
11:24:32 22 incarceration and arriving at SCI Phoenix in November.

11:24:37 23 Q. Okay. So November until when?

11:24:41 24 A. Until roughly a week ago when I found out
11:24:45 25 that the 675 number was no longer valid.

11:24:49 1 Q. okay. So your testimony is that from
11:24:53 2 November of 2021 until March of this year essentially,
11:24:57 3 you called one to two times a month?

11:24:59 4 A. Correct.

11:24:59 5 Q. And you had added that number to your
11:25:04 6 approved number list?

11:25:05 7 A. Yes.

11:25:06 8 Q. Would you call from your counselor's office
11:25:10 9 or from some other phone?

11:25:11 10 A. From the only phone we have access to in the
11:25:14 11 day room.

11:25:14 12 Q. okay. And how many voice mails did you
11:25:21 13 leave?

11:25:21 14 A. None because they are not allowed.

11:25:23 15 Q. By whom?

11:25:25 16 A. The jail.

11:25:28 17 THE GRANDFATHER: The system.

11:25:29 18 ATTORNEY BODENE: You'll have a turn,
11:25:32 19 sir.

11:25:32 20 BY ATTORNEY BODENE:

11:25:33 21 Q. So you didn't leave a single voice mail is
11:25:35 22 your testimony?

11:25:36 23 A. Again, it is not allowable. No.

11:25:38 24 Q. What time -- what days of the week? You said
11:25:40 25 you called on weekends?

11:25:41 1 A. Usually on a Saturday.

11:25:42 2 Q. At what time?

11:25:44 3 A. It varied. We had different blackout
11:25:49 4 schedules.

11:25:49 5 Q. And how many times did -- would -- I'll
11:26:00 6 rephrase that. Did you have e-mail access or do you
11:26:04 7 have e-mail access at the prison?

11:26:06 8 A. I do not. Not what anyone would commonly
11:26:09 9 consider e-mail.

11:26:10 10 Q. Are you physically capable of sending an
11:26:13 11 e-mail?

11:26:13 12 A. Only unless there is a person who approves
11:26:17 13 themselves as a contact for me to be able to send them
11:26:20 14 a digital message.

11:26:22 15 Q. That's a request that you can put in?

11:26:24 16 A. I would have to make contact with Ms. Pickett
11:26:27 17 first.

11:26:27 18 Q. Okay. And did you put in any sort of request
11:26:30 19 through your counselor, through your counselor at
11:26:34 20 prison, or your legal counsel to do that?

11:26:39 21 A. I had sent a request for phone visitation
11:26:42 22 with my children through my counselor to which it was
11:26:46 23 not responded to.

11:26:47 24 Q. Your prison counselor?

11:26:54 25 A. Yes.

11:26:54 1 Q. Do you have a copy of that request?

11:26:55 2 A. I do not. It should be on file through the
11:27:00 3 jail at least through the counselor, if not records.

11:27:02 4 Q. But you don't have that here today?

11:27:03 5 A. No. They don't give me a copy of it.

11:27:06 6 Q. So I'm going to -- your counsel, if he can be
11:27:10 7 so kind to show you Plaintiff's Exhibit 1, do you have
11:27:13 8 that? Do you have in front of you, sir, Plaintiff's
11:27:25 9 Exhibit 1?

11:27:25 10 A. I see it.

11:27:28 11 Q. Okay. That number at the top, (570)
11:27:33 12 447-2751, that's your phone number before being
11:27:35 13 incarcerated, correct?

11:27:36 14 A. Correct.

11:27:36 15 Q. And this is a text message that you sent to
11:27:39 16 Ms. Pickett in December of 2020, correct?

11:27:47 17 ATTORNEY HARSHBERGER: I'm going to
11:27:48 18 object to relevancy. This is from 2020. He's
11:27:50 19 currently incarcerated. I'm not sure if he can be a
11:27:52 20 threat to or if this is -- make an allegation of a
11:27:56 21 threat while he's incarcerated.

11:27:58 22 ATTORNEY BODENE: It's not for the
11:27:59 23 content, Your Honor, and certainly not for having it go
11:28:01 24 to a threat. It is going to his testimony that he had
11:28:04 25 no idea how to reach her, her phone number has changed,

11:28:07 1 whatever. This is him reaching her two years ago,
11:28:10 2 almost a year and a half ago.

11:28:12 3 THE COURT: Overruled.

11:28:13 4 THE WITNESS: Prior to incarceration.

11:28:15 5 BY ATTORNEY BODENE:

11:28:17 6 Q. Sir, let me ask the question again. I'm not
11:28:19 7 sure what you're answering. This is the text that you
11:28:20 8 sent to her prior to incarceration, correct?

11:28:22 9 A. Correct.

11:28:23 10 Q. All right. And would it surprise you to
11:28:29 11 learn that this is the 454-9566 number we talked about?

11:28:32 12 A. It very well could be.

11:28:34 13 Q. Okay. If your counsel could kindly show you
11:28:41 14 Plaintiff's Exhibit 2. Do you have that in front of
11:28:50 15 you now?

11:28:51 16 A. Yes.

11:28:52 17 Q. This e-mail, it is from
11:29:04 18 H-E-X-T-E-R-K-R-H-E-X, however you say that, at
11:29:08 19 gmail.com. That was your e-mail before being
11:29:09 20 incarcerated, right?

11:29:11 21 A. Correct.

11:29:11 22 Q. And the e-mail is being sent to
11:29:17 23 S-A-R-A-D-O-E-S-T-H-E-T at gmail.com. It was Ms.
11:29:22 24 Pickett's e-mail or is Ms. Pickett's e-mail?

11:29:25 25 A. Yes.

11:29:26 1 Q. And this e-mail you sent to her back in May
11:29:29 2 of 2019?

11:29:29 3 A. According to the timestamp, yes.

11:29:32 4 Q. All right. But this is an e-mail that you
11:29:34 5 sent to her, correct?

11:29:35 6 A. Yes.

11:29:36 7 ATTORNEY BODENE: All right. And if
11:29:37 8 counsel could kindly show you Plaintiff's Exhibit 3.

11:29:42 9 ATTORNEY HARSHBERGER: I'm going to
11:29:44 10 object as to hearsay.

11:29:46 11 THE COURT: Be more specific, Attorney
11:29:50 12 Harshberger.

11:29:50 13 ATTORNEY HARSHBERGER: It seems like it
11:29:51 14 is not related to either -- it is from someone else.
11:29:54 15 It is not a party. I'm not sure.

11:29:59 16 ATTORNEY BODENE: Your Honor, the -- I'd
11:30:01 17 be happy if the Court would like to redact the yellow
11:30:06 18 portions which are someone else. The white portions
11:30:09 19 are Mr. Hexter who is here in court today. It is not
11:30:12 20 being offered for the truth of what the other
11:30:14 21 individual and the conversation is stating. That is
11:30:17 22 irrelevant. It is going towards his communications and
11:30:21 23 he's here.

11:30:22 24 THE COURT: Cross out the yellow, pay no
11:30:28 25 attention to it.

11:30:29 1 ATTORNEY HARSHBERGER: I get the point
11:30:30 2 what he is trying to introduce for ability to contact.

11:30:34 3 THE COURT: Okay.

11:30:35 4 BY ATTORNEY BODENE:

11:30:36 5 Q. All right. Sir, do you have in front of you
11:30:38 6 Plaintiff's Exhibit 3?

11:30:39 7 A. I do.

11:30:39 8 Q. Okay. And that has the same number there at
11:30:42 9 the top, (570) 447-2751 and that being your phone
11:30:46 10 number, correct?

11:30:46 11 A. My phone number, correct.

11:30:48 12 Q. And Rusty, that is a name that you go by in
11:30:51 13 your e-mail and your text, right?

11:30:53 14 A. Yes.

11:30:54 15 Q. And, again, we are not going to get into what
11:30:59 16 the other individual in the text conversation is
11:31:02 17 saying. But -- well, I'll let the exhibit speak for
11:31:07 18 itself.

11:31:08 19 All right. So in one of the prior
11:31:17 20 orders since last year, it was indicated that you have
11:31:23 21 the right to contact your children by phone and I
11:31:27 22 believe it says something about sending mail to a PO
11:31:30 23 box. Do you recall that?

11:31:31 24 A. Yes.

11:31:31 25 Q. Did you -- did you ever reach out to ask for

11:31:40 1 a PO box to be set up or for what that PO box
11:31:43 2 information should be -- let me ask that better.

11:31:47 3 Did you ask Ms. Pickett since the date
11:31:49 4 of that order what her PO box information is?

11:31:52 5 A. I did not.

11:31:53 6 Q. Okay. When is the last time that you wrote
11:31:56 7 any letter to your kids?

11:31:58 8 A. It would have had to have been summer of 2020
11:32:06 9 when I mailed a letter to my children through my
11:32:09 10 father, not through Ms. Pickett.

11:32:11 11 Q. Okay. All right. So talking about
11:32:26 12 contact -- let me hit something else first. I forgot
11:32:29 13 to mention on your criminal offense, you're also on
11:32:34 14 Megan's Law sex offender registration, correct?

11:32:37 15 A. Not until after completion of incarceration.

11:32:39 16 Q. That's fair. But you will be as a lifetime
11:32:42 17 registrant, correct?

11:32:43 18 A. From my understanding, yes.

11:32:45 19 Q. Has your sexually violent predator status
11:32:48 20 been determined yet?

11:32:50 21 A. I'm not sure what that -- what level you're
11:32:55 22 speaking of.

11:32:55 23 Q. So has your counsel talked to you about above
11:33:00 24 and beyond being a Megan's Law sexual offender, you
11:33:04 25 know, registrant on a website? There is an additional

11:33:06 1 status called a sexually violent predator when you've
11:33:09 2 been convicted for this type of offense. An evaluation
11:33:14 3 has to be done. Has that been discussed with you at
11:33:15 4 all?

11:33:16 5 A. Briefly. And I was told that I will not be
11:33:18 6 on a predator's list -- violent predator's list.

11:33:23 7 Q. Did you get something from the DA's Office or
11:33:25 8 the Court specifically saying that?

11:33:26 9 A. It may be in my paperwork. But I do not
11:33:29 10 physically have any possession of that.

11:33:30 11 Q. Okay. But you don't have that here today?

11:33:32 12 A. Correct.

11:33:33 13 Q. All right. Talking about your father, also
11:33:42 14 Mr. Hexter, how would you like me to refer to him.

11:33:46 15 I'll call him your father.

11:33:49 16 THE GRANDFATHER: You can call me Bruce.

11:33:52 17 ATTORNEY BODENE: Is that all right?

11:33:54 18 THE GRANDFATHER: Yeah.

11:33:55 19 BY ATTORNEY BODENE:

11:33:56 20 Q. So how often -- or does Bruce have
11:33:58 21 court-ordered time for your other child, [A.H.]?

11:34:02 22 A. Not court ordered, no. It is voluntary.

11:34:06 23 Q. Okay. Are you aware that [A.P.] has a heart
11:34:13 24 murmur?

11:34:13 25 A. Under my care it was never confirmed.

11:34:17 1 Q. Okay.

11:34:18 2 A. From what I understand, it was [R.H.] who had
11:34:20 3 the heart murmur, not [A.P.].

11:34:24 4 Q. Just a minute ago you were asked if either of
11:34:25 5 your kids had any medical issues and you said not that
11:34:27 6 you know of. That's correct, right, that was your
11:34:29 7 testimony?

11:34:29 8 A. It was never confirmed. But yes, I did say
11:34:33 9 that my kids were in good health.

11:34:42 10 ATTORNEY BODENE: Your Honor, I have
11:34:42 11 nothing further.

11:34:43 12 THE COURT: I have a question, sir. If
11:34:49 13 this court ordered mother to send you information about
11:34:55 14 the children's educational and medical needs and
11:34:59 15 records and so forth, how would you want that to be
11:35:03 16 sent to you? How could you receive that if you don't
11:35:06 17 have e-mail access?

11:35:08 18 THE WITNESS: They can be sent through
11:35:10 19 USPS, Your Honor.

11:35:12 20 THE COURT: Regular mail?

11:35:13 21 THE WITNESS: Yes, sir.

11:35:13 22 THE COURT: Okay. Fair enough.

11:35:15 23 Redirect.

11:35:15 24 ATTORNEY HARSHBERGER: Briefly, Your
25 Honor.

* * *

REDIRECT EXAMINATION

BY ATTORNEY HARSHBERGER:

Q. So it was asked did you ever write a letter since incarceration to mother. Did mother, to the best of your knowledge, provide either her previous counsel, me, or anyone a PO box that she rented at her express -- at her expense as ordered at a summary report?

A. No.

Q. Did she ever disclose to you her actual address right now?

A. No. What I have on file is 2030 Coventry at Waterford. And according to York police, they state that the address does not exist.

Q. So you do not know mother's address. So if you tried to write a letter, you could not write it and address to who it is addressed, correct?

A. Correct.

Q. And look at Exhibit 3. That does not show any number who you texted. So you have no idea who you texted according if you block out the yellow, there is no number up top that says who you texted?

A. Correct or date.

Q. Or date. And number one, you have no idea

11:36:26 1 based upon this exhibit what that number was purported
11:36:31 2 to be that you were texting?

11:36:32 3 A. Correct.

11:36:33 4 Q. Okay. Now to your understanding, has mother
11:36:37 5 changed her number -- has mother changed her number in
11:36:41 6 the past couple of years?

11:36:43 7 A. Yes, multiple times.

11:36:44 8 Q. How many numbers do you think that mother had
11:36:47 9 in the past couple of years, phone numbers?

11:36:50 10 A. In the last three, I would say at least
11:36:53 11 three.

11:36:53 12 Q. And how many -- well, that's three known to
11:36:56 13 you, right?

11:36:56 14 A. Correct.

11:36:57 15 Q. And how many addresses has mother lived at to
11:37:01 16 the best of your knowledge?

11:37:02 17 A. I'm uncertain because I only have the one
11:37:04 18 address in York.

11:37:05 19 Q. Okay. Now, your understanding of the
11:37:10 20 communication system at SCI, can you get on a computer
11:37:14 21 and e-mail someone?

11:37:15 22 A. No.

11:37:16 23 Q. Do you need someone to call into the jail and
11:37:20 24 say put me on the list?

11:37:23 25 A. Either call in or e-mail, yes, that's

11:37:25 1 correct.

11:37:25 2 Q. So someone needs to proactively ask, I need
11:37:29 3 on Kris's list so I could e-mail him?

11:37:32 4 A. Correct.

11:37:32 5 Q. How does that then work? Can you then just
11:37:36 6 e-mail or how does the digital communication as you
11:37:40 7 call it function?

11:37:41 8 A. The person has to be approved first, and then
11:37:44 9 that person needs to buy credits so they can send and
11:37:48 10 receive e-mails from said inmate. An inmate also needs
11:37:52 11 to have credits on his account in order to reply to any
11:37:57 12 e-mails.

11:37:57 13 Q. So how do you see the digital communication?

11:38:01 14 A. By logging into a kiosk in a public forum.

11:38:06 15 Q. And then you can -- you can you print
11:38:09 16 anything?

11:38:09 17 A. No, not at this time.

11:38:11 18 Q. Could you view pictures?

11:38:13 19 A. No.

11:38:13 20 Q. Can you -- you could just read the digital
11:38:20 21 communication of what was written?

11:38:21 22 A. Text only, no attachments.

11:38:23 23 Q. What is your understanding of the SCI's
11:38:26 24 communication via telephone, so outbound calls? When
11:38:33 25 you call, is it just ring on your end and someone picks

11:38:36 1 up?

11:38:36 2 A. Yes. Unless it is not picked up, it goes to
11:38:39 3 voice mail and then the system tells me that the call
11:38:43 4 may or may not have been received and/or answered.

11:38:46 5 Q. Can you, in fact, leave a voice mail?

11:38:49 6 A. I cannot.

11:38:52 7 ATTORNEY HARSHBERGER: All right. No
11:38:52 8 further questions on that.

11:38:53 9 THE COURT: Recross.

11:38:55 10 ATTORNEY BODENE: Thank you, Your Honor.

11:38:56 11 * * *

11:38:56 12 RECROSS-EXAMINATION

13 BY ATTORNEY BODENE:

11:38:58 14 Q. Just a quick point, sir. If someone sends
11:39:00 15 you mail other than your attorney, that mail is not
11:39:03 16 private, correct?

11:39:05 17 A. Correct.

11:39:06 18 Q. In other words, it goes to an address in
11:39:08 19 Florida, gets scanned. Various people will see it,
11:39:12 20 correct?

11:39:12 21 A. Yes.

11:39:13 22 Q. So if it is medical records having to do with
11:39:17 23 your children whose social security numbers, health
11:39:20 24 issues, things like that, that becomes public, correct,
11:39:22 25 by doing that?

11:39:23 1 A. Yes.

11:39:25 2 Q. Who is on your phone list currently?

11:39:32 3 A. So far it is both my parents, Ms. Pickett,
11:39:35 4 and a few friends of mine.

11:39:36 5 Q. So Ms. Pickett is on your phone list?

11:39:39 6 A. Yes, with her old number.

11:39:44 7 ATTORNEY BODENE: Nothing further, Your
11:39:45 8 Honor.

11:39:45 9 THE COURT: Re-redirect?

11:39:47 10 ATTORNEY HARSHBERGER: No.

11:39:48 11 THE COURT: Okay. All right. Do you
11:39:52 12 have your next witness?

11:39:53 13 ATTORNEY HARSHBERGER: I'll call Bruce
11:39:59 14 Hexter.

11:40:00 15 THE COURT: Do you mind coming up here
11:40:01 16 to the witness stand, sir. The clerk will swear you
11:40:06 17 in.

11:40:06 18 * * *

19 BRUCE HEXTER,

20 called as a witness

21 having been duly sworn according to law,

22 testified as follows:

11:40:36 23 * * *

11:40:36 24 THE CLERK: Please be seated. Please
11:40:42 25 state and spell your first and last name.

11:40:45 1 THE WITNESS: Bruce Hexter, B-r-u-c-e,
11:40:48 2 H-e-x-t-e-r.

11:40:51 3 THE COURT: All right. Attorney
11:40:53 4 Harshberger.

11:40:53 5 ATTORNEY HARSHBERGER: Thank you.

6 * * *

7 DIRECT EXAMINATION

8 BY ATTORNEY HARSHBERGER:

9 Q. Bruce, is it all right if I call you Bruce?

10 A. Yep.

11:40:56 11 Q. Bruce, how old are you today?

11:40:58 12 A. I'm 70.

11:40:59 13 Q. Okay. And what do you do for a living,
14 Bruce?

11:41:02 15 A. I'm retired.

11:41:02 16 Q. So you're able to, if need be, visit your
11:41:07 17 grandchildren as often as you would love?

11:41:09 18 A. Yes.

11:41:10 19 Q. Okay. And what are you asking the Court for
11:41:14 20 as far as visits?

11:41:14 21 A. I'd like to have the children at least for a
11:41:19 22 full weekend maybe once a month or every other month.

11:41:23 23 Q. Okay. So you're willing to do something as
11:41:27 24 far as a weekend?

11:41:27 25 A. Plus a week. Maybe a week a year for

11:41:30 1 vacation, to take them to the shore or something like
11:41:32 2 that.

11:41:33 3 Q. Have you ever taken the children to the
11:41:34 4 shore?

11:41:35 5 A. I haven't taken them to the shore, but I've
11:41:37 6 taken them to different -- a lot of different parks to
11:41:40 7 play.

11:41:40 8 Q. Where have you taken them to?

11:41:42 9 A. A lot of different playgrounds in the area
11:41:45 10 that I've taken them to and my -- down where I live.
11:41:49 11 Down with some friends at my friend's house, they have
11:41:53 12 a giant playground that is actually called the castle
11:41:56 13 and looks like one.

11:41:58 14 Q. Where do you live, Mr. Bruce?

11:42:00 15 A. I live in Sanatoga, Pennsylvania.

11:42:03 16 Q. And how far away is that a drive?

11:42:06 17 A. From here?

11:42:07 18 Q. From here, yeah.

11:42:08 19 A. From here, it took me approximately an hour
11:42:11 20 and 45 minutes -- between an hour and 45 minutes to two
11:42:15 21 hours to get here this morning.

11:42:17 22 Q. We had a little weather this morning, right,
11:42:18 23 that played a factor in the travel time?

11:42:20 24 A. Believe it or not, it didn't. I stayed right
11:42:22 25 to the speed limit, didn't have to slow down.

11:42:24 1 Q. Did you -- other things you do with -- well,
11:42:29 2 let's talk about this. When did you first meet [A.P.]?

11:42:31 3 A. When she was born.

11:42:34 4 Q. And when did you first meet [R.H.]?

11:42:37 5 A. The day he was actually born.

11:42:39 6 Q. Now, you understand that [A.P.] is not your
11:42:49 7 biological grandchild?

11:42:51 8 A. Correct.

11:42:52 9 Q. Okay. And [R.H.] is your biological
11:42:58 10 grandchild?

11:42:59 11 A. Yes.

11:42:59 12 Q. And [A.H.] is a half sibling of these two and
11:43:03 13 she is a biological grandchild?

11:43:05 14 A. Yes.

11:43:05 15 Q. Has [A.P.] and [R.H.] met [A.H.]?

11:43:13 16 A. Yes, they did.

11:43:14 17 Q. And were you present when they met [A.H.]?

11:43:18 18 A. I wasn't there the day that they met. But it
11:43:28 19 could've been a couple days or week before I was there
11:43:32 20 for them.

11:43:33 21 Q. Did you see the interaction between [A.P.],
11:43:36 22 [R.H.], and [A.H.]?

11:43:37 23 A. Yes. They used to hold her, feed her. Feed
11:43:46 24 her the bottle and everything.

11:43:48 25 THE COURT: When is this? When are we

11:43:51 1 talking about?

11:43:52 2 THE WITNESS: well, [A.H.] just turned
11:43:54 3 three. So when she was a newborn they were feeding her
11:43:59 4 and everything.

11:44:00 5 THE COURT: We're talking about a couple
11:44:02 6 years ago?

11:44:02 7 THE WITNESS: Three years ago.

11:44:04 8 THE COURT: Okay.

11:44:04 9 THE WITNESS: All of way up until the
11:44:06 10 separation of Kris and Taylor.

11:44:10 11 THE COURT: Okay. All right. Go ahead.

11:44:12 12 BY ATTORNEY HARSHBERGER:

11:44:12 13 Q. So then as recently as 2021, has the
11:44:16 14 children -- all three children been together?

11:44:19 15 A. I would say yes.

11:44:23 16 Q. Okay. And you were able to see those
11:44:26 17 relationships between the children grow from newborn to
11:44:30 18 one to two and, well, you can't say three?

11:44:33 19 A. Well, yeah. Probably it was what, about a
11:44:36 20 year and a half when they separated I believe. When
11:44:41 21 Kris and Taylor separated and left with [A.H.].

11:44:45 22 Q. And right now, how often do you get to see
11:44:49 23 [A.H.]?

11:44:50 24 A. Past couple months I've seen her a couple of
11:44:55 25 times.

11:44:55 1 Q. Would you like to bring [R.H.] and [A.P.]
11:44:58 2 around [A.H.] again?

11:45:00 3 A. Yes. Because Taylor, the mother, [A.H.]'s
11:45:06 4 mother has said -- asked me -- constantly asked me have
11:45:09 5 I seen or heard anything from the two kids because she
11:45:14 6 even liked the kids and got along with them great.

11:45:16 7 Q. Now, at your house, did you do any fun things
11:45:21 8 with [A.P.] and [R.H.]?

11:45:23 9 A. Played games, took them -- I have bicycles at
11:45:28 10 my house. I bring them down from Kris's house or he
11:45:32 11 would bring them down and have them out riding bikes
11:45:37 12 all around in my neighborhood and taking them different
11:45:42 13 places --

11:45:44 14 Q. Now --

11:45:45 15 A. -- playing games.

11:45:46 16 Q. You said that you take them fishing, right?

11:45:49 17 A. Yes, I have taken them fishing.

11:45:52 18 Q. What do you fish for?

11:45:53 19 A. Go out trout fishing. I'm a member of a club
11:45:57 20 called Stony Creek Anglers. They actually had a trout
11:46:02 21 tournament that Kris actually brought them down to, and
11:46:06 22 the kids did their own fishing right there. We helped
11:46:10 23 them out, took them to other -- I took them up to a
11:46:13 24 place by Kris's house to go fishing.

11:46:16 25 Q. How old were they when you did that, can you

11:46:19 1 remember? How long ago was that? Better question.

11:46:26 2 A. I guess they were three and four and five,
11:46:31 3 six.

11:46:31 4 Q. Have you taken them fishing every year?

11:46:33 5 A. I've taken them a couple of times, couple
11:46:35 6 years different times.

11:46:37 7 Q. Do they know how --

11:46:39 8 A. I actually bought their own rods for them.

11:46:43 9 Q. Do they know how to bait their own hook right
11:46:46 10 now?

11:46:46 11 A. Oh, no. That's a little rough especially
11:46:49 12 with the baits that I use.

11:46:50 13 Q. So what do they call you? what does [R.H.]
11:46:54 14 call you?

11:46:55 15 A. Both call me Pop Pop.

11:46:56 16 Q. And so I guess Pop Pop baits the hook. Do
11:47:00 17 they throw it out?

11:47:01 18 A. No. I cast out for them because the rods are
11:47:05 19 a little bit rough to try to use. Push buttons, they
11:47:09 20 can't get the hang of it yet.

11:47:12 21 Q. Can they reel it in?

11:47:14 22 A. Oh, yeah.

11:47:14 23 Q. Have each one of them caught at least one
11:47:16 24 fish in their life?

11:47:18 25 A. Yes.

1 Q. Bike --

11:47:21 2 A. I did have pictures but I can't find them of
11:47:23 3 the fish that they caught at our trout rodeos.

11:47:27 4 Q. I apologize. I'm trying to not talk when he
11:47:30 5 does. And bike riding, you have them bike ride at your
11:47:38 6 house?

11:47:39 7 A. Yes.

11:47:39 8 Q. Did you buy them bicycles?

11:47:42 9 A. Yes, I bought them both bicycles for their --
11:47:46 10 for either birthday or Christmas presents.

11:47:48 11 Q. And do those bikes stay at your house or do
11:47:51 12 they go to Kris's or come and go?

11:47:53 13 A. They were at Kris's house until he got
11:47:58 14 incarcerated. Then I brought them back down to my
11:48:00 15 house which, of course, they have been sitting there
11:48:02 16 since. But they would travel back and forth when they
11:48:06 17 were coming or going.

11:48:07 18 Q. And you provided some pictures today,
11:48:13 19 collectively they are Exhibit No. 1 of bicycle and the
11:48:16 20 fishing and going to -- you took them to see Santa?

11:48:20 21 A. Yeah.

11:48:20 22 Q. Okay. And those pictures, you took those
11:48:23 23 pictures?

11:48:23 24 A. Yes, I did.

11:48:24 25 Q. Those are an actual representation of what

11:48:28 1 was occurring that day?

11:48:29 2 A. Yes.

11:48:29 3 Q. And the picture is with both [A.P.] and
11:48:36 4 [R.H.]?

11:48:36 5 A. Yes.

11:48:36 6 Q. They seem happy in those photos?

11:48:41 7 A. They are very happy. They had a blast.

11:48:43 8 Q. Now, you being -- and I mean no disrespect
11:48:48 9 with this comment. You being 70, you have pictures
11:48:53 10 from 2019. Do you have any pictures newer?

11:48:56 11 A. I think there is one or two pictures there of
11:48:59 12 2020. I'm not much of a picture taker as you can
11:49:02 13 probably tell.

11:49:05 14 THE COURT: As a grandfather of seven, I
11:49:08 15 will tell you you might want to improve on that a
11:49:10 16 little bit.

11:49:11 17 THE WITNESS: You take a lot of
11:49:12 18 pictures?

11:49:13 19 THE COURT: I do and I airdrop them to
11:49:15 20 various people.

11:49:16 21 THE WITNESS: I'm very -- I don't take
11:49:18 22 many pictures at all to be honest with you.

11:49:20 23 THE COURT: I understand. I was just
11:49:23 24 trying to persuade you. You might want to reconsider
11:49:24 25 that.

11:49:24 1 THE WITNESS: Yep. All right. Go
11:49:26 2 ahead.

11:49:27 3 BY ATTORNEY HARSHBERGER:

11:49:27 4 Q. Given that you have limited time -- I mean
11:49:30 5 let me retract that question. During -- before Kris
11:49:35 6 was incarcerated, you had time to spend with the
11:49:42 7 children on weekends and overnights, correct?

11:49:48 8 A. Yes.

11:49:48 9 Q. So let's go back to --

11:49:50 10 A. Various.

11:49:51 11 Q. -- 2021. You had some overnights. How many
11:49:57 12 overnights do you think that you had until August
11:49:59 13 whenever Kris was incarcerated?

11:50:01 14 A. Probably a good half dozen or more.

11:50:06 15 Q. How many visits do you think that you had
11:50:08 16 during that period of time?

11:50:09 17 A. Just -- just like day visits?

11:50:12 18 Q. Yeah. In addition to the overnights.

11:50:14 19 A. Oh, probably once a month. I mean at least.
11:50:17 20 once a month.

11:50:18 21 Q. Were you calling them on the phone?

11:50:20 22 A. Constantly.

11:50:22 23 Q. Now --

11:50:23 24 A. Three or four times a week. Video chatting
11:50:28 25 them.

11:50:28 1 Q. I mean no disrespect by this. But how were
11:50:30 2 you actually video chatting them?

11:50:32 3 A. On my cell phone.

11:50:35 4 Q. Through --

11:50:36 5 A. I talk to them through Facebook messenger.
11:50:39 6 They have this spot that you can open up and talk to
11:50:43 7 them.

11:50:43 8 THE COURT: I'm impressed.

11:50:45 9 THE WITNESS: He taught me how to do it.

11:50:47 10 THE COURT: I understand completely.

11:50:49 11 THE WITNESS: I'm not a computer person.

11:50:51 12 BY ATTORNEY HARSHBERGER:

11:50:51 13 Q. So you were able to do that with Kris, right?

11:50:53 14 A. Yes.

11:50:54 15 Q. Now, were you at one point in time able to
11:50:57 16 communicate with mother and call the children on either
11:51:01 17 her Facebook account or do the children have Facebook
11:51:04 18 accounts?

11:51:04 19 A. Yes, I did. Every once in while I talk to
11:51:08 20 mother with the kids on Facebook -- face chat or
11:51:11 21 whatever you want to call it through messenger. And
11:51:14 22 then all of a sudden got cut off.

11:51:18 23 Q. Do you have an estimated time when that was?

11:51:22 24 A. No, I don't. I can't remember off the top of
11:51:26 25 my head. I'm sorry.

11:51:27 1 Q. Now since Kris was incarcerated, have you
11:51:33 2 seen [R.H.] or [A.P.] at all?

11:51:36 3 A. Not at all, not once.

11:51:39 4 Q. Can you call mom on Facebook messenger like
11:51:43 5 you were doing previously?

11:51:44 6 A. No. Because she cut me off. She blocked me.

11:51:49 7 Q. Okay. Do you feel at this time comfortable
11:51:56 8 calling mom on the phone?

11:51:57 9 A. If I could call and talk -- and talk to her
11:52:01 10 and get the kids and talk with the kids and everything,
11:52:04 11 yes.

11:52:04 12 Q. So the question is going to be raised, why
11:52:07 13 have you not called them since August then?

11:52:10 14 A. The number --

11:52:12 15 Q. Why had you not called mom since August?

11:52:13 16 A. The number that I had was the incorrect
11:52:16 17 number.

11:52:17 18 Q. And did you somehow make someone aware of
11:52:20 19 that?

11:52:21 20 A. I notified -- I told you about it, and then
11:52:24 21 you gave me the new number that you had gotten.

11:52:26 22 Q. And --

11:52:27 23 A. That was just recently.

11:52:28 24 Q. Right. And have you tried that number?

11:52:31 25 A. No, I hadn't tried it yet. I said, okay. We

11:52:35 1 are at the point right now close to trial, I'll just
11:52:37 2 wait until trial --

11:52:38 3 Q. Okay.

11:52:41 4 A. -- or hearing, whatever you want to call it.

11:52:43 5 Q. Do you love your grandchildren, [A.P.] and
11:52:47 6 [R.H.]?

11:52:47 7 A. Definitely.

11:52:49 8 Q. Are you at some points in times stern with
11:52:54 9 them?

11:52:54 10 A. I've been stern with them, yes.

11:52:56 11 Q. Is that when maybe they are putting
11:53:00 12 themselves in danger that you need to correct them?

11:53:03 13 ATTORNEY BODENE: Objection, leading.

11:53:04 14 THE WITNESS: Pardon.

11:53:04 15 THE COURT: It is leading but overruled.
11:53:10 16 Go ahead. You may answer.

11:53:11 17 THE WITNESS: I've been stern with them
11:53:13 18 when trying to correct them if I see them doing
11:53:16 19 something wrong or incorrectly or something that might
11:53:19 20 harm them. Then I would be very stern with them.

11:53:22 21 BY ATTORNEY HARSHBERGER:

11:53:23 22 Q. Okay.

11:53:28 23 A. By raising my voice.

11:53:29 24 Q. Do you know mother's address?

11:53:39 25 A. I heard once. I forgot to write it down and

11:53:44 1 don't have it offhand. I know it's something with two
11:53:48 2 names in the address and then York.

11:53:50 3 Q. So you don't have a good address to mail the
11:53:53 4 children gifts or letters or anything?

11:53:55 5 A. I don't. I don't have it at the present.

11:53:58 6 Q. Okay. What -- well, I guess we asked. What
11:54:06 7 are you -- what else would you like to tell mom today
11:54:10 8 or the Court today?

11:54:13 9 A. I'd like to see my grandchildren. I love
11:54:15 10 those kids dearly, and I'd like to be able to spend
11:54:20 11 time with them. And I think the kids love me. That's
11:54:25 12 my opinion. They used to -- when they would come over
11:54:29 13 to my house, they would basically fight as to who was
11:54:32 14 going to sit on grand pop's lap while we sat there and
11:54:37 15 watched a movie.

11:54:38 16 Q. And I guess if you were granted weekends
11:54:41 17 without Kris there or some period of time, what would
11:54:45 18 you plan on doing? Would you want to meet halfway,
11:54:49 19 want to travel all of the way to York, would you want
11:54:53 20 her to travel to you? What would you like?

11:54:55 21 A. If we can get set up where I travel once to
11:54:59 22 pick up and she comes to me to pick them back up or
11:55:04 23 vice versa, reverse each time or meet halfway if we
11:55:11 24 have to.

11:55:12 25 Q. If you met sometimes, you would be okay with

11:55:17 1 coming and picking them up because you would have
11:55:19 2 something planned in this area?

11:55:20 3 A. Yes. I would do it that way if I had to if I
11:55:27 4 could find something. I don't -- I'll be honest with
11:55:30 5 you. I don't know this area at all. I know my area
11:55:35 6 very well to be able to take the kids and do stuff down
11:55:39 7 in my area.

11:55:40 8 Q. Assuming that the weather is bad outside and
11:55:44 9 you can't go outside and do things outside, what would
11:55:46 10 you do in your house with the children for a weekend?

11:55:50 11 A. I might take them to a movie for the day --
11:55:52 12 or during the day or something and then come home and
11:55:55 13 maybe play games, get them to color, put puzzles
11:56:03 14 together with them.

11:56:05 15 Q. Have you done that in the past, put puzzles
11:56:08 16 together with them?

11:56:09 17 A. Pardon.

11:56:09 18 Q. Have you done that in the past, put puzzles
11:56:12 19 together?

11:56:12 20 A. At the time, they were a little bit young and
11:56:15 21 we did some of the small puzzles that took two minutes
11:56:18 22 to do that type of puzzle. Now that they are getting
11:56:21 23 older, probably get into more intricate puzzles I would
11:56:27 24 get.

11:56:27 25 ATTORNEY HARSHBERGER: I don't have

11:56:29 1 anything else.

11:56:31 2 THE COURT: Cross-examination.

11:56:31 3 ATTORNEY BODENE: Thank you, sir.

4 * * *

5 CROSS-EXAMINATION

6 BY ATTORNEY BODENE:

11:56:35 7 Q. Sir, you have been in the courtroom this
11:56:37 8 entire proceeding, right?

11:56:39 9 A. Correct.

11:56:39 10 Q. So you were there when your counsel indicated
11:56:43 11 at the beginning when we were kind of doing
11:56:45 12 housekeeping issues, he indicated something to the
11:56:47 13 effect that you were looking to foster communication
11:56:49 14 between your son and the kids. Do you remember when
11:56:53 15 he said that?

11:56:53 16 A. Yes.

11:56:54 17 Q. Can you understand how that might be slightly
11:56:57 18 concerning for mom's perspective given dad's situation?

11:57:01 19 A. Correct.

11:57:01 20 Q. You and mom did have a period where you were
11:57:11 21 able to -- where you were able to communicate.
11:57:15 22 Specifically, your son was previously incarcerated I
11:57:19 23 believe from May to September of 2020. Does that sound
11:57:22 24 right?

11:57:22 25 A. Correct.

11:57:23 1 Q. During that time, you reached out to her and
11:57:27 2 the two of you were able to make some informal
11:57:30 3 arrangements, correct?

11:57:31 4 A. Correct. We were talking back and forth on
11:57:33 5 the Facebook chats.

11:57:35 6 Q. And so can you understand how coming to court
11:57:40 7 and seeking a court order mandate that essentially
11:57:45 8 doesn't need or ask for her permission might have a
11:57:49 9 chilling effect on that relationship?

11:57:51 10 A. Yeah.

11:57:51 11 Q. So --

11:58:01 12 ATTORNEY HARSHBERGER: I'm sorry. Was
11:58:03 13 that question finished?

11:58:03 14 ATTORNEY BODENE: I was done. He said
11:58:05 15 yes.

11:58:05 16 ATTORNEY HARSHBERGER: Okay.
11:58:06 17 BY ATTORNEY BODENE:

11:58:11 18 Q. Sir, the phone number, do you remember off
11:58:14 19 the top of your head the phone number that she has?

11:58:17 20 A. I look at names on my phone and push the
11:58:19 21 button.

11:58:20 22 Q. I understand.

11:58:21 23 A. That's what today's technology is.

11:58:24 24 Q. I understand. I guess the number that I
11:58:31 25 indicated when I was asking your son questions, did

11:58:34 1 that sound correct to you? Do you have any reason to
11:58:37 2 believe that is not her number?

11:58:38 3 A. It could be. Like I said, I don't remember
11:58:43 4 numbers.

11:58:43 5 Q. Okay. That's fair.

11:58:46 6 A. I even have to look up my own once in a
11:58:48 7 while.

11:58:49 8 Q. Do you remember when the last time you
11:58:50 9 changed her phone number in your phone was?

11:58:53 10 A. Just the other day when I got the new number
11:58:56 11 off of Josh. I put that new number in. I don't know
11:59:01 12 what that number is. I just added it to her phone.

11:59:06 13 Q. Have you ever e-mailed with her before?

11:59:09 14 A. No.

11:59:09 15 Q. But I guess let me ask it this way. You
11:59:17 16 don't have any reason to question if I say she's had
11:59:21 17 her current phone number since late 2020. You don't
11:59:25 18 have any specific information to say that is wrong,
11:59:28 19 correct?

11:59:28 20 A. I don't have -- I can't say yes or no to
11:59:31 21 that.

11:59:31 22 Q. And then if -- the same thing with her
11:59:34 23 e-mail. If the e-mail that I said into the record
11:59:37 24 earlier for Ms. Pickett, if I were to say that she had
11:59:43 25 that for the last several years, you don't have --

11:59:45 1 A. I never e-mailed her. So I have no idea what
11:59:47 2 her --

11:59:48 3 Q. Okay. So you haven't reached out -- when is
11:59:58 4 the last time that you did call Ms. Pickett?

12:00:01 5 A. Actually talk to her on the phone?

12:00:05 6 Q. Or even attempted to call her.

12:00:07 7 A. I think I attempted once or twice prior to or
12:00:14 8 after his incarceration and got no answer.

12:00:17 9 Q. Did you leave a voice mail?

12:00:18 10 A. It just wouldn't even let me leave a voice
12:00:23 11 mail.

12:00:24 12 Q. Sir, you indicated you're retired, and I
12:00:29 13 understand that doesn't mean you have nothing to do.
12:00:32 14 You're probably busier now than you were working.

12:00:35 15 A. Oh, yeah.

12:00:36 16 Q. Would you -- if the Court gives you some, you
12:00:41 17 know, time for the kids, would you be willing,
12:00:46 18 understanding that mom is employed, would you be
12:00:49 19 willing to do more than half of the transportation? Is
12:00:53 20 that something you would be willing to consider?

12:00:54 21 A. I would consider that, yes.

12:00:57 22 Q. And if the Court arranged for a certain
12:01:08 23 amount of time say per month, would you be flexible on
12:01:14 24 that to accommodate like if mom has prior plans or if
12:01:17 25 you have prior plans that you guys are able to --

12:01:20 1 A. Yes.

12:01:22 2 Q. -- be flexible?

12:01:22 3 A. I would be very flexible with that. And also
12:01:25 4 weather, depending on weather would be flexible -- both
12:01:29 5 of us be flexible due to weather because of the
12:01:31 6 distance that I have to travel to come down or she
12:01:35 7 would have to travel to come up, either way.

12:01:42 8 ATTORNEY BODENE: Thank you, sir. No
12:01:43 9 further questions.

12:01:43 10 THE COURT: Redirect.

11 ATTORNEY HARSHBERGER: Briefly. I
12:01:47 12 apologize for not asking this earlier.

12:01:48 13 * * *

12:01:48 14 REDIRECT EXAMINATION

15 BY ATTORNEY HARSHBERGER:

12:01:50 16 Q. Do you get calls from Kris from SCI?

12:01:53 17 A. Yes, I do.

12:01:53 18 Q. Explain that process. What happens when you
12:01:56 19 pick the phone up?

12:01:57 20 A. I answer the phone. It says you have a call
12:02:01 21 coming from and you hear him saying Kris. To accept --
12:02:08 22 or it says something to the effect if you think this
12:02:11 23 call is incorrect, hang up and do something. I can't
12:02:15 24 remember what the exact wording is. But press one to
12:02:18 25 accept the call.

12:02:20 1 Q. Okay.

12:02:20 2 A. When I do that, then he comes on. I start
12:02:23 3 talking to him.

12:02:24 4 Q. All right. So --

12:02:25 5 A. We get interrupted twice during the call
12:02:28 6 saying it is being recorded.

12:02:30 7 Q. So my understanding is from what you're
12:02:32 8 telling me is you have to hit one in order to be
12:02:34 9 connected?

12:02:35 10 A. I have to hit one on my phone to be connected
12:02:38 11 so I can talk to him. So he can -- if he is trying to
12:02:44 12 leave me a voice mail, he can't because I didn't hit
12:02:47 13 one.

12:02:48 14 Q. Now, when you called the number that you
12:02:56 15 thought was Ms. Pickett's --

12:02:59 16 A. Yes.

12:03:00 17 Q. -- that number just rang and rang and rang
12:03:03 18 and no one ever answered, no voice mail ever picked up?

12:03:05 19 A. Correct.

12:03:05 20 Q. You previously were able to communicate with
12:03:08 21 her on Facebook and that has since been stopped and
12:03:12 22 blocked?

12:03:12 23 A. Correct.

12:03:13 24 Q. Did you block her?

12:03:14 25 A. I did not block her.

12:03:16 1 Q. So you still want to try to call her on
12:03:19 2 Facebook messenger?

12:03:20 3 A. Yeah. I wanted to call and talk to the grand
12:03:24 4 kids. So I can Facebook talk to the kids on, hey, how
12:03:27 5 are you doing? Oh, look what you're doing now.

12:03:29 6 Q. And how often would you like to do that?

12:03:32 7 A. Maybe once a week.

12:03:35 8 Q. We're not talking long. I mean how long
12:03:37 9 would you want -- how long were you on the phone with
12:03:39 10 them previously?

12:03:40 11 A. Sometimes I get on the phone with them like
12:03:42 12 that for over half hour. And then they start clowning
12:03:46 13 around and I said, okay, we got to go now. I'd hang up
12:03:51 14 on them because they were starting to get rowdy.

15 ATTORNEY HARSHBERGER: All right. I
12:03:57 16 have no further questions.

12:03:58 17 ATTORNEY BODENE: No recross, Your
12:03:59 18 Honor.

12:03:59 19 THE COURT: All right. You may stand
12:04:01 20 down. Thank you. Attorney Harshberger, any other
12:04:04 21 witnesses?

12:04:05 22 ATTORNEY HARSHBERGER: I do not, Your
12:04:06 23 Honor.

12:04:06 24 THE COURT: I would try to finish this
12:04:09 25 today but I've got a 1:00 and 1:30 that is going to

12:04:14 1 prohibit that. So we are going to have to come back
12:04:16 2 and finish yet.

12:04:22 3 Attorney Bodene, do you want to give me
12:04:26 4 how long that will take?

12:04:28 5 ATTORNEY BODENE: I have one witness,
12:04:29 6 Your Honor. Likely maybe an hour I would imagine.
12:04:31 7 Before I forget, Your Honor, I would move to admit my
12:04:33 8 Exhibits 1 through 3 with the redaction of the yellow
12:04:36 9 portions of Exhibit 3.

12:04:38 10 THE COURT: Any objection?

12:04:38 11 ATTORNEY HARSHBERGER: No objection.

12:04:39 12 THE COURT: You're asking for the
12:04:40 13 admission of yours also?

12:04:42 14 ATTORNEY HARSHBERGER: Yes.

12:04:42 15 ATTORNEY BODENE: No objection.

12:04:46 16 THE COURT: They are all admitted. I'm
12:04:49 17 giving them to the Prothonotary right now. Get your
12:04:56 18 calendars out. We are going to go off the record.
12:05:15 19 Father or grandfather can participate by either Zoom or
12:05:17 20 video. That's fine.

12:05:19 21 (A discussion was held off the record.)

12:06:06 22 THE COURT: June 2nd at 1:30 works.

12:06:10 23 Okay.

12:06:20 24 In this matter, this custody trial needs
12:06:25 25 completed. Mother has to put on her case, and the

12:06:29 1 Court has been advised that should take an hour to an
12:06:32 2 hour-and-a-half.

12:06:32 3 Accordingly, the Court does schedule
12:06:34 4 this to be finished on June 2, 2022, at 1:30 p.m. The
12:06:42 5 Court has allowed one-and-a-half hours to finish this.
12:06:45 6 Father and/or grandfather may participate by Zoom
12:06:49 7 rather than live if they so prefer.

12:06:53 8 In the meantime, the Court issues the
12:06:55 9 following temporary order:

12:06:56 10 First of all, for both of these
12:07:01 11 children, [R.H.] and [A.P.], mother has sole legal and
12:07:05 12 sole physical custody. However, for both children,
12:07:13 13 mother will furnish to father all educational, medical,
12:07:22 14 counseling, and all other records to father within
12:07:29 15 48 hours of her receiving them by her putting them in
12:07:31 16 the United States mail postage prepaid within 48 hours
12:07:35 17 of her receiving them; and, hopefully, father will
12:07:38 18 receive them somewhat shortly thereafter.

12:07:42 19 The Court is cognizant that the United
12:07:44 20 States mail takes a long time these days. But father
12:07:47 21 doesn't seem to have any other way of receiving these
12:07:50 22 things. So for now, mother will send them to father
12:07:54 23 through the United States mail.

12:07:57 24 Additionally, father may have phone
12:08:00 25 contact with [R.H.] only for up to 30 minutes one time

per week, and it can be by Zoom or other video. The times will be agreed to by the parties.

Additionally, father may write letters to [R.H.] through mother. Father is to have no contact with [A.P.] until further order of court.

Grandfather, also known as Pop Pop, will have partial physical custody of both children one time per month for nine hours. That will be on a Saturday from 10 a.m. until 7 p.m. The first Saturday will be this coming Saturday, April 9, 2022, and the second Saturday of each month thereafter. Pop Pop, Mr. Bruce Hexter, will pick up the children at mother's residence and then mother will pick up the children at grandfather's residence at the conclusion of the nine hour time period.

Additionally, the grandfather, also known as Pop Pop, may have phone or video times with these two children as he may arrange with mother; but they should be at least three times per month.

Finally, mother is ordered to contact a therapist of her choice and try to commence some therapy for [A.P.] to at the very least deal with her issues relative to her biological father or psychological father, which she refers to as her brother's father, the interplay of that issue, as well

12:10:07 1 as the fact that her brother's father, the
12:10:12 2 psychological father, is currently incarcerated and
12:10:15 3 will be for some time. Obviously, the therapist can
12:10:18 4 address other issues as the therapist may deem
12:10:22 5 appropriate.

12:10:25 6 Both counsel will have access to any and
12:10:29 7 all contact with or records by said therapist. This is
12:10:36 8 a temporary order only until we finish this trial on
12:10:40 9 June 2, 2022.

12:10:44 10 By the Court. Copies to Attorneys
12:10:49 11 Harshberger and Bodene.

12:10:51 12 ATTORNEY BODENE: May I clarify a couple
12:10:53 13 minor points?

12:10:53 14 THE COURT: I said that awfully fast.
12:10:55 15 You won't get a copy of this until next week. So yeah,
12:10:58 16 go ahead.

12:10:59 17 ATTORNEY BODENE: Thank you. I guess,
12:11:02 18 well, more a request for modification. So with the
12:11:06 19 mail, may mother redact personal information like
12:11:10 20 social security numbers anything like going to be --

12:11:12 21 THE COURT: Yes. Add in there that when
12:11:20 22 mother sends records to father, confidential
12:11:25 23 information such as social security numbers may be
12:11:28 24 redacted.

12:11:29 25 ATTORNEY HARSHBERGER: Point of

12:11:31 1 clarification. She can mail it to me and then I can
12:11:33 2 mail it to him through attorney records. So then it
12:11:36 3 won't -- I would still make sure that identification
12:11:39 4 information would be redacted. She can check, I can
12:11:42 5 check and mail it to him.

12:11:43 6 THE COURT: Not a bad idea. I'll leave
12:11:44 7 you to work that out. It's only a temporary order
12:11:47 8 anyway.

12:11:47 9 ATTORNEY BODENE: On the point of
12:11:49 10 transportation, my client does not drive. It is not
12:11:52 11 that her license is suspended. She just doesn't have
12:11:54 12 her license. For the temporary order, at least can we
12:11:58 13 request that grandfather would do the transportation
12:12:01 14 since this is a temporary and she hasn't testified yet
12:12:06 15 and she doesn't have a license.

12:12:09 16 THE COURT: Sherri, go back and change
12:12:13 17 grandfather will have both children -- partial
12:12:16 18 custodial rights of both children one time for both
12:12:19 19 children for ten hours. Saturday from 9 a.m. until 7
12:12:24 20 p.m. First Saturday is this Saturday, April 9, and the
12:12:29 21 second Saturday of each month. Grandfather, also known
12:12:33 22 as Pop Pop, will both pick up and deliver the children
12:12:36 23 to mother's residence.

12:12:39 24 Obviously, I gave him the extra hour so
12:12:41 25 he's not spending three of his which is why I

12:12:46 1 increased it from eight to nine, three of his eight
12:12:48 2 hours on the road.

12:12:49 3 ATTORNEY BODENE: I appreciate that,
12:12:50 4 Your Honor. I understand. If I may just one more
12:12:53 5 point. Her residence has always been confidential and
12:12:57 6 really not an issue for -- father obviously has no
12:13:02 7 reason to know where she lives. Can they meet at like
12:13:06 8 Rutter's or Sheetz or somewhere like that near her
12:13:09 9 residence?

12:13:09 10 THE COURT: No. No. I understand but
12:13:20 11 my hope is that at the very least grandfather and
12:13:24 12 mother will start to develop or maybe go back to would
12:13:30 13 be a better word -- go back to a better relationship
12:13:32 14 with each other. I think mother has to have some
12:13:35 15 pretty full disclosure; telephone number, e-mail
12:13:40 16 address, and physical address. And she just needs to
12:13:43 17 start to trust Pop Pop a little bit more.

12:13:48 18 Having said that, you abuse that trust,
12:13:53 19 pass along information that she requests you not pass
12:13:56 20 along, that will be a horse of a whole different color.
12:14:02 21 Fair enough. Okay. Anything else?

12:14:05 22 ATTORNEY BODENE: It is just a genuine
12:14:08 23 sincere safety issue on her part. I understand that
12:14:10 24 counsel will --

12:14:13 25 THE COURT: How can it be if the father

12:14:13 1 is in prison until at least 2026 or something?

12:14:18 2 ATTORNEY BODENE: I understand, Your
12:14:22 3 Honor. It is not information that father really needs
12:14:24 4 to know and if they --

12:14:29 5 THE COURT: Candidly, Attorney Bodene,
12:14:30 6 these days with Google and all that if you want to find
12:14:33 7 someone's address, you can find it anyway. I got to be
12:14:36 8 very honest with you. Keeping that a secret is --
12:14:39 9 those days are gone.

12:14:42 10 ATTORNEY BODENE: I understand.

12:14:42 11 THE COURT: Sorry. Attorney
12:14:47 12 Harshberger, anything else?

12:14:47 13 ATTORNEY HARSHBERGER: Just I'm not sure
12:14:49 14 we can order this. But unblock him on Facebook so he
12:14:53 15 can have those video calls on Facebook or I guess
12:14:56 16 however we can figure it out.

12:14:59 17 THE COURT: I'm not going to order that,
12:15:00 18 but I would hope she would do that. Again, she has got
12:15:06 19 to start developing some trust with grandfather. And,
12:15:09 20 again, grandfather has got to honor that. If she tells
12:15:12 21 you I don't want you to tell your son X, Y, or Z, you
12:15:16 22 should honor that.

12:15:18 23 THE GRANDFATHER: I will.

12:15:20 24 THE COURT: I heard you on the witness
12:15:20 25 stand. You said you understood where she would have

12:15:22 1 some mistrust of your son. You said you understood
12:15:26 2 that. And I appreciated that. I thought you were very
12:15:30 3 honest in that. So I expect you to honor that. Okay.

12:15:34 4 THE GRANDFATHER: I will honor it.

12:15:36 5 THE COURT: Fair enough.

12:15:37 6 ATTORNEY BODENE: Your Honor, just to
12:15:38 7 repeat one thing Your Honor had indicated previous. If
12:15:40 8 we can indicate that during paternal grandfather's
12:15:45 9 time, he is not to allow any contact between the
12:15:46 10 children and father. I think you indicated earlier
12:15:49 11 just to clarify.

12:15:50 12 THE COURT: Put in there if I didn't
12:15:52 13 already somewhere that father is to have no contact
12:15:54 14 with [A.P.] in any way at any time.

12:15:59 15 ATTORNEY HARSHBERGER: [R.H.] is okay?

12:16:01 16 THE COURT: Yes. I did all of that
12:16:03 17 before that. Put that in right after [R.H.]'s stuff.

12:16:07 18 ATTORNEY BODENE: Your Honor, it is --
12:16:09 19 paternal grandfather is allowed to have contact with
12:16:12 20 the kids. Father is allowed to have contact with
12:16:14 21 [R.H.]. But why should paternal grandfather allow the
12:16:17 22 kids to have contact with father, that's the whole
12:16:22 23 other --

12:16:22 24 THE COURT: I'm lost.

12:16:24 25 ATTORNEY HARSHBERGER: His concern is

12:16:25 1 like the concern in chambers or in the jury room was
12:16:29 2 that if father calls grandfather while he has custody
12:16:34 3 this Saturday and [A.P.] is there.

12:16:39 4 THE COURT: I thought that was clear,
12:16:41 5 but I'll make it even more clear.

12:16:44 6 ATTORNEY BODENE: Do not let [A.P.] at
12:16:46 7 the phone.

12:16:46 8 THE COURT: Where you put that father is
12:16:47 9 to have no contact with [A.P.] at any time, any way and
12:16:50 10 that includes specifically grandfather will not allow
12:16:55 11 any contact between the two of them while grandfather
12:16:59 12 is exercising any custodial rights of [A.P.].

12:17:04 13 THE GRANDFATHER: I get it.

12:17:06 14 ATTORNEY BODENE: Thank you, Your Honor.

12:17:07 15 THE COURT: Anything else?

12:17:08 16 ATTORNEY BODENE: No, Your Honor.

12:17:09 17 THE COURT: Okay. Mom, grandfather, I
12:17:15 18 really meant that. I really want the two of you to go
12:17:18 19 back -- try to go back to a much better relationship
12:17:21 20 you had at one time. I understand that is not easy.

12:17:24 21 Raising children is not easy. And
12:17:31 22 candidly these kids are going to benefit from a
12:17:34 23 relationship with their grandfather. I understand you
12:17:37 24 got trust issues. That's why I have told grandfather
12:17:41 25 and I believe him. He does understand it, why you

12:17:45 1 would have trust issues. And I think he will honor
12:17:47 2 that. Try to develop that relationship.

12:17:54 3 Candidly, I would like to see a year or
12:18:02 4 two from now that the kids will be seeing grandfather
12:18:06 5 more often than I ordered because you volunteered that.
12:18:09 6 That is what I would really like to see. I said a year
12:18:12 7 or two from now because I understand there has to be
12:18:13 8 some time to build up some trust. I get that. These
12:18:18 9 children are not going to be seeing father for at least
12:18:22 10 what, at least four years, maybe longer. But that does
12:18:24 11 not mean they should not have a relationship with their
12:18:27 12 grandfather. Grandparents are very important in
12:18:30 13 children's lives. And I just really want to try to
12:18:35 14 emphasize that with all of the emphasis that I can
12:18:38 15 possibly put on it. Okay. I'll see everyone back on
12:18:42 16 June 2nd.

12:18:43 17 ATTORNEY HARSHBERGER: Thank you, Your
12:18:43 18 Honor.

12:18:43 19 ATTORNEY BODENE: Thank you.

12:18:49 20 (Proceedings are adjourned.)

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C E R T I F I C A T I O N

I hereby certify that the proceedings and evidence are contained fully and accurately in the notes taken by me on the trial of the above cause, and that this copy is a correct transcript of the same.

Sherri A. Reitano

Sherri A. Reitano, RPR
Official Court Reporter